REPORT

ON

Indian Immigration

By Resolution of July 15th, 1939, the Government of Burma appointed a Commission of Inquiry to examine the question of Indian immigration into Burma. The terms of the Resolution were as follows :—

GOVERNMENT OF BURMA.

DEPARTMENT OF COMMERCE AND INDUSTRY.

POSTS AND TELEGRAPHS BRANCH.

Extract from the Proceedings of the Government of Burma,—No. 151V39, dated the 15th July 1939.

Resolution.—In pursuance of the decision of Government, already publicly announced, to appoint a Commission of Inquiry to examine the question of Indian immigration into Burma, the following gentlemen have been appointed by the Governor of Burma to compose the Commission :—

Commissioner.

THE HON'BLE MR. J. BAXTER.

Assessors.

U TIN TÜT, *Bar.-at-Law*, I.C.S.

MR. RATILAL DESAI, M.A.

The terms of reference to the Commission are as follows :—

To enquire into and to report on the following matters :—

(1) the volume of Indian immigration ;

(2) to what extent it is seasonal and temporary and to what extent permanent ;

(3) in what occupations Indians are mainly employed and the extent to which they are unemployed or under-employed ;

(4) whether in such employment Indians either have displaced Burmans or could be replaced by Burmans, due regard being paid to both the previous history of such occupations and their economic requirements ; and

(5) whether in the light of the statistics obtained and other relevant factors any system of equating the supply of Indian unskilled labour to Burman requirements is needed.

By order,

J. H. WISE,

Secretary to the Government of Burma,
Department of Commerce and Industry.

The Government of Burma had previously issued a Communiqué declaring its intention to institute an enquiry, setting forth the reasons which made it expedient to examine the question of Indian immigration and announcing the nature and scope of the inquiry as agreed upon between the Governments of India and Burma. The text of the Communiqué which was issued on June 17th, 1939, was as follows :—

"The Government of Burma have recently been in correspondence with the Government of India on the subject of Indian immigration into Burma. The matter is one which has been for some time prominently in the public mind and received special attention when the Riot Enquiry Committee, discussing in its Interim Report some of the underlying causes of the disturbances which occurred last year made special mention of the widespread uneasiness about Indian penetration into Burma, of which feeling it had found evidence in the course of its enquiries. Similar feelings are reflected in the common references to the subject in the Press and in the frequency with which it has been referred to in questions and resolutions in the Legislature. The Government of Burma are satisfied that it has become a matter of urgency to ascertain the true facts with regard to the alleged penetration of Indian labour into Burma, since it is only on a basis of facts about which the present information is seriously defective that a sound policy regarding immigration can be founded.

The matter of Indian immigration is for the time being governed by the terms of the Government of Burma (Immigration) Order of 1937, under which immigration into Burma from India is to be subject to no restrictions which were not in force at the time of separation. This Order, which was given effect for a minimum of three years from the date of separation and which was not to be terminated at the end of that period without twelve months' notice from the Government of Burma to the Government of India, was designed to secure that no changes should be introduced without mature deliberation between the two countries It was contemplated that this deliberation should be entered into during the currency of the Order. From this point of view also, it is desirable that the fact-finding enquiry referred to in the preceding paragraph should be taken in hand at once.

As a result of correspondence with the Government of India agreement has been reached on a Commission of Enquiry to be conducted on the following lines.

The enquiry will be entrusted to a sole Commissioner to whom one Burman and one Indian will be attached as assessors. The enquiry will be directed to ascertaining—

(1) the volume of Indian immigration ;

(2) to what extent it is seasonal and temporary and to what extent permanent ;

(3) in what occupations Indians are mainly employed and the extent to which they are unemployed or under-employed ;

(4) whether in such employment Indians either have displaced Burmans or could be replaced by Burmans, due regard being paid to both the previous history of such occupations and their economic requirements ; and

(5) whether in the light of the statistics obtained and other relevant factors any system of equating the supply of Indian unskilled labour to Burman requirements is needed.

Full opportunity to present their case will be given to interested associations and individuals competent to speak on the questions in issue. For the presentation of the Indian case, the Agent to the Government of India will be permitted to advise and assist the spokesmen of the Indian community, to follow all proceedings of the enquiry, to cross-examine witnesses appearing to give evidence and, if necessary, to supplement the evidence given by Indian Associations or individuals.

The appointment of Commissioner has been offered to the Hon'ble Mr. J. Baxter, Financial Adviser, and accepted by him. The names of the Burman and Indian assessors will be announced at an early date."

By Notification of December 2nd, 1939, Dr. H. Bernardelli, D. Phil., Head of the Department of Economics, University College, Rangoon, was appointed Secretary to the Commission of Inquiry.

The Commission held eighteen meetings and interviewed over seventy-five witnesses. Memoranda on questions relating to the enquiry were received from representatives of the more important business firms, from employers of labour, from a number of Government departments, from Chambers of Commerce and others. A special enquiry on industrial labour was carried out in connexion with which information in the form required was received from 1,392 industrial establishments.

I take this opportunity of conveying the thanks of the Commission to all those members of the public who in one way or another furthered the conduct of the enquiry.

Among the Appendices appear a considerable number of tables which were compiled in 1934 under the direction of Mr. H. F. Searle of the Indian Civil Service to whom the Commission desire to acknowledge their obligation.

To the Assessors and Secretary I tender my thanks for their contribution towards the prosecution of the enquiry and for their help and advice throughout the course of the investigations. I am very especially indebted to Professor C. G. Beasley of the University of Rangoon, for much valuable assistance and in particular for the presentation and interpretation of the material obtained from the special enquiry on industrial labour.

Finally I should perhaps make it clear that the views expressed and the recommendations made in this report are personal to the Commissioner and do not in any way involve the responsibility of the Assessors.

JAMES BAXTER.

RANGOON, *12th October 1940.*

CHAPTER I.

INTRODUCTORY.

1. Migration from India to Burma is no new thing. It has been going on as far back as Burmese history can be traced through its chronicles and legendary lore. In its modern phase it may however be taken to have had its origin in the fundamental change in the economic life of the country consequent on the opening up of foreign markets to Burma rice in the second half of the nineteenth century. This provided the stimulus necessary to bring the large cultivable wastes in Burma under the plough and led to a rapid extension of the area under paddy cultivation. The change from a self-sufficing economy to one directed in ever increasing degree towards the supply of outside markets entailed the organization and continuous expansion of the chain of services intervening between the agriculturist and the consumer of his produce. For the most part the waste lands were cleared and brought under cultivation by Burmese labour, the part played by the Indian agricultural labourer being relatively insignificant when viewed against the magnitude of the Burman achievement. The pace of development was set and limited by the available hands. The carrying out of operations other than actual cultivation had of necessity to be undertaken by races other than Burman and fell naturally and inevitably to the Indian by virtue of his proximity and of his historical connexions with Burma, and also because there were to hand an Indian trading class and Indian labour ready and able to supply the services which the situation demanded not only for the carrying-on of the commerce in rice but also for the development of trade and industry in general.

Whatever the position may be to-day there was a long period during which it could not be said that the Burman and the Indian were in competition with one another. Each had his separate sphere in the economic life of the country. There is an interesting and significant passage in the report on the 1911 census in which Mr. Morgan Webb found the explanation of the failure of a large number of urban areas to keep pace with the general increase in population in a "natural spontaneous movement back to the land," due to a "comprehensive instinctive effort to effect the colonization of the waste places of the province." The towns described as "non-progressive" had, Mr. Morgan Webb believed, "ceased to progress because the demand for agricultural extension (had) been irresistibly drawing their actual or potential surplus populations."

Nearly thirty years have passed since Mr. Morgan Webb wrote. Conditions have changed. The Burman, from necessity perhaps more than from choice, is increasingly seeking a footing in occupations other than agriculture and is entering into competition with other races more especially with the Indian. But this competition is a phenomenon of comparatively recent origin and is perhaps not yet so extensive or acute as is sometimes thought.

2. Any systematic enquiry on Indian Immigration must rely in the main for its material on the Census Reports. These are seven in number The first census was taken in 1872, the second in 1881, since when a census has been held every ten years, the most recent being in 1931. Although the census returns constitute the principal source of information, there exists a certain amount of other material illustrative of the part played by the Indian population in certain specific occupations or classes of occupations.

On the place occupied by the Indian in agriculture there is first of all the series of Settlement Reports which contain much of value ; there is the enquiry made in the harvesting season of 1932-33 by the Director of Statistics and Labour Commissioner with the object of ascertaining the numbers and the organization of, as well as the need for, Indian paddy reapers in the Pegu and Irrawaddy Divisions and there is also the enquiry conducted by Mr. H. F. Searle, the then Commissioner of Settlements and Land Records, in 1934 in certain Delta districts regarding the employment of Indian agricultural labourers engaged in April or May as whole-time workers by owner or tenant cultivators. For occupations other than agriculture a special industrial enquiry was conducted in 1934, also by Mr. Searle, with the express purpose of establishing the relative shares of Burman and Indian skilled and unskilled labour in industry. To enable a comparison to be made with the results of the 1934 investigations, an identical enquiry for 1939 was held by the Immigration Commission.

Statistics purporting to show the numbers of immigrants and emigrants month by month and year by year are available in the form of tables compiled from the returns of Shipping Companies to the Port Commissioners and from the records of the Port Health Officers. And finally there is the evidence written and oral submitted to the Immigration Commission by public bodies, business firms, members of the Legislature, landowners, tenants, contractors, maistries, labourers and other persons on questions relevant to the subject matter of this Enquiry.

3. In considering the relative sizes of the Indian population at successive census dates and in comparing the proportions which it progressively constituted of the total population of the country, it is necessary to recall that the census areas underwent frequent change. The 1872 and 1881 censuses were taken over approximately the same area, estimated at about 75,970 square miles, and roughly covered what was then known as British Burma The annexation in 1885 of the Kingdom of Upper Burma and the States dependent on it, tripled the territory under British rule with the consequence that the 1891 census was held over a greatly enlarged area, stated to be about 152,218 square miles. The 1891 census operations did not extend to the dependent States although an estimate of the population of the Shan States was made. In 1901 the census area was further enlarged and extended to include the Shan States (excluding East and West Manglun and Kokang), Karenni, the Chin Hills District as it then was, the administered portion of the Pakôkku Hill Tracts and some parts of districts in Upper Burma which had been omitted from the 1891 census. The area censused in 1901 amounted to 226,209 square miles. In 1911, 1921 and 1931 the census areas progressively increased as the more remote and previously unadministered tracts were

brought under regular administration. But the extensions were relatively slight. The 1931 census was held over an area of 233,492 square miles, that is, over some 7,000 square miles more than in 1901. It may therefore be assumed that the figures in the tables which appear in the last four census reports relate to approximately comparable areas.

4. It is of some importance to note the dates on which the censuses were taken as these affect not only the size of the Indian population on the census dates but also its occupational distribution. The dates were :—

1872	...	August 15th,
1881	...	February 17th,
1891	...	February 26th,
1901	...	March 1st,
1911	...	March 10th,
1921	...	March 18th,
1931	...	February 24th.

Except in 1872 the censuses were taken on dates ranging from February 17th to March 18th, that is, when the paddy reaping season was nearing its end or had definitely ended and when the Indian harvesters had partly or completely left the fields to return home as is the common case in Akyab District or to seek employment in the towns and particularly in the rice mills as is customary in Lower Burma. It is moreover when the harvesting operations are completed that the passenger traffic to Indian ports from Rangoon increases and when the number of outgoing begins to show an excess over the number of incoming passengers.

A difference in census dates such as that between the 1921 census (March 18th) and the 1931 census (February 24th) may therefore appreciably influence the recorded size of the Indian population and its occupational distribution. The numerical effect would be greatest in Akyab District where the large number of Chittagonians who come annually to reap the rice crop would to a considerable extent have gone home by February 17th but to a still greater extent by March 18th. In Lower Burma the effect on total numbers would be less marked but the degree to which the Indian population is engaged in agriculture or employed in other occupations would be sensibly different on February 24th than on March 18th.

5. In the 1931 census returns, Indians who returned a birthplace in Burma were distinguished from those who returned a birthplace outside Burma. It is not known what proportion of Indians born outside Burma had settled down in Burma and regarded it as their permanent residence. The attempt made to distinguish between Indians permanently resident and Indians temporarily resident in Burma failed because of suspicion in the minds of many Indians regarding the motive behind the enquiry. Some part of the "born out" Indian population in Burma will of course have been long resident in the country and have adopted it as their home. But how large or how small this part may be, there is no means of ascertaining. When a special industrial census was taken in 1921 of labourers employed in a number of the principal industries such as rubber, minerals, wood, metals, rice, oil-refining

and the construction of means of transport, it was found that out of a total of 62,498 male Indian labourers born outside Burma and engaged in these industries, only 2,598 reported that they intended to reside permanently in the country. Whether the same proportion would hold good for Indians born outside Burma employed in agriculture, trade, or industries other than those mentioned, it is impossible to say. Broadly however it will be assumed in this report that Indians born in Burma are permanently settled and that Burma is the country of their adoption whereas Indians born outside Burma will be regarded as constituting a population the great bulk of which regards Burma as a place of temporary residence where under the compelling force of economic necessity many Indians spend a part, sometimes a considerable part, of their lives but with the intention, or at least the hope, of eventually returning and settling down in the country of their birth.

CHAPTER II.

Growth of Indian Population.

6. The tracing of the growth of the Indian population through the series of census reports is a matter of some complexity. It was not until the sixth census, that of 1921, that a racial classification of the population was attempted. In previous censuses the population was classified by religion only. An attempt had however been made in the enumeration of 1881 and the three subsequent enumerations to form an approximate idea of the size of the Indian population by recording the number of persons who returned an Indian vernacular as their mother tongue, defined as the language commonly spoken by a person in his own home. Religion and language are not perfect criteria of race but it is believed that tables showing the growth of the Indian population can be compiled with fair accuracy from the religious, linguistic and racial census returns.

7. It is assumed in the following tables that the Indian population at the time of the first census in 1872 is the sum of the Hindu and Mohamedan populations as recorded in the census of that year. There is little objection to assuming that all the Hindus were Indian but it is not so true to assume that all the Mohamedans were Indian. There was an Arakanese Muslim community settled so long in Akyab District that it had for all intents and purposes to be regarded as an indigenous race. There were also a few Mohamedan Kamans in Arakan and a small but long established Muslim community around Moulmein which could not be regarded as Indian. There is no record of the numbers of any of these categories of Mohamedans in the 1872 census returns and consequently no allowance can be made for them by way of deduction from the Hindu and Mohamedan population figures. It should, therefore, be borne in mind that the 1872 population figure in the following tables is somewhat higher than the true figure.

For 1881, 1891, 1901 and 1911 the census tables give the number of persons who returned an Indian language as their mother tongue. This is assumed to represent the Indian population at each of these census dates. In the 1921 and 1931 census returns, Indians were classified by race. For these years the Indian constituent of the population is taken to be the number of persons who then returned themselves as belonging to one of the forty specified Indian races, or who were tabulated as " Indians of unspecified race " where their records though indefinite showed they belonged to an Indian race.

8. On these assumptions the following table gives the total number of persons enumerated on successive census dates over the whole censused area, the number of Indians (including Nepalese), and the percentage of total population which was Indian :—

Census.	Total Population.	Indian Population.	Indian Percentage.
1872	2,747,148	136,504 (1)	4·9
1881	3,736,771	243,123 (2)	6·5
1891	8,098,014	420,830 (2)	5·1
1901	10,490,624	568,263 (2)	5·4
1911	12,115,217	743,288 (2)	6·1
1921	13,212,192	887,077 (3)	6·7
1931	14,667,146	1,017,825 (3)	6·9

Approximately the same areas.

(1) Hindu and Mohamedan populations.

(2) Number returning an Indian language as mother tongue.

(3) Number returning an Indian race.

The Indian population figures for the censuses 1881 to 1911 inclusive are probably too high. There is reason to believe that some of the Arakanese Mohamedans returned an Indian vernacular as their mother tongue since although they use Burmese in writing, among themselves they commonly speak the language of their ancestors. The number of Arakanese Muslims who returned an Indian vernacular in 1921 was estimated in the 1931 census report at ten to fifteen thousand persons.

In considering the variations in the Indian percentages in the foregoing table, it should be remembered that there were changes in the censused areas. From and including 1901, the percentage figures are however approximately comparable since although the census areas progressively increased, the increases were relatively slight.

9. To see the growth of the Indian population in its proper perspective, it is necessary to set the Indian element in the population against the separate backgrounds of the Lower and the Upper Burma populations since the Indian constituent of each is very different.

Lower Burma.

Census.	Total Population.	Indian Population.	Indian Percentage.
1872	2,747,148	136,504	4·9
1881	3,736,771	243,123	6·5
1891	4,658,627	355,454	7·6
1901	5,405,967	497,981	9·2
1911	6,212,412	651,459	10·4
1921	6,862,106	763,043	11·1
1931	7,765,614	849,381	10·9

The above percentages are all comparable since the census areas remained to all intents and purposes the same. To the extent that the language returns in the 1881 to 1911 censuses give an Indian population higher than the real one mainly because of the inclusion of a proportion of the Arakanese Muslims, the figures are inaccurate. Nevertheless it would seem substantially true to say that the Indian population increased from some 5 per cent to about 11 per cent of the total population of Lower Burma in the course of about 60 years.

Upper Burma.

Census.	Total Population.	Indian Population.	Indian Percentage.
1891	3,063,426	62,658	2·0
1901	3,823,935	61,645	1·6
1911	4,397,844	82,087	1·8
1921	4,852,694	106,800	2·2
1931	5,336,434	134,157	2·5

There would seem to be an error in the 1901 figure. The Hindu and Mohamedan populations in Upper Burma then numbered together 88,670 or 2·3 per cent of the whole population, an increase of 17,233 on the 1891 figure. In view of this increase, it is hardly credible that the number of persons using an Indian vernacular as their customary speech should have diminished. The Indian constituent has always represented a small proportion of the Upper Burma population and in 1931 constituted only 2·5 per cent of the population as compared with 10·9 per cent in the case of Lower Burma.

10. A large part of the Indian population of Upper Burma is concentrated in the five districts of Mandalay, Kyauksè, Meiktila, Myingyan and Yamèthin.

Distribution of Indians in Upper Burma.

Census.	Total.	Five Districts.	Percentage of Total.
1891	62,658	34,036	54·3
1901	61,645	30,278	49·1
1911	82,087	39,841	48·5
1921	106,800	48,872	45·7
1931	134,157	61,758	46·0

11. The distribution of the Indian population in Lower Burma is shown by administrative divisions in the following tables :—

Arakan Division.

Census.	Total Population.	Indian Population.	Indian Percentage.
1881	587,518	113,557	19·6
1891	671,899	137,922	20·5
1901	762,102	173,884	22·8
1911	839,896	197,990	23·5
1921	909,246	206,990	22·7
1931	1,008,535	217,801	21·6

For the reason already given, the 1881 to 1911 Indian population figures are probably too high since they are believed to include a considerable number of Arakanese Muslims. In 1911, for example, the Hindu and Mohamedan populations in Arakan together amounted to 202,320 persons or only 4,330 more than the number who returned an Indian vernacular. As the indigenous Mohamedans in the Arakan Division numbered 25,955 at the time of the 1921 census, it is obvious that in 1911 there could not have been 197,990 Indians out of a total Hindu and Mohamedan population of 202,320. The figures for the previous censuses must also of course be too high. The error does not enter into the 1921 and 1931 census figures which are by race. It is of interest to note that the Indian population in 1931 formed a smaller percentage of the population of Arakan than in 1921. As the 1921 census was taken on March 18th, that is twenty-two days later than that of 1931, a larger proportion of the Chittagonian harvesters would have returned home when the 1921 census was taken than on the census date in 1931. Consequently it may be presumed that had the 1921 census been taken on the same date as that of 1931, namely, February 24th, the Indian population would have been more numerous and the percentage consequently higher.

Pegu Division.

Census.	Total Population	Indian Population.	Indian Percentage.
1881	1,162,393	73,710	6·3
1891	1,456,489	127,318	8·7
1901	1,820,638	213,292	11·7
1911	2,073,737	298,481	14·4
1921	2,309,293	355,971	15·4
1931	2,549,637	400,239	15·6

The growth of the Indian population in the Pegu Division including Rangoon was continuous and rapid, though it should be noted that the increase in the Indian percentage of total population was small in the last decade.

Irrawaddy Division.

Census.	Total Population.	Indian Population.	Indian Percentage.
1881	1,161,119	15,795	1·3
1891	1,552,166	29,655	1·9
1901	1,663,669	44,291	2·6
1911	1,869,485	65,176	3·5
1921	2,030,044	89,403	4·4
1931	2,334,774	111,274	4·8

Tenasserim Division.

Census.	Total Population.	Indian Population.	Indian Percentage.
1881	825,741	40,061	4·8
1891	978,073	60,559	6·2
1901	1,159,558	66,514	5·7
1911	1,429,294	89,812	6·3
1921	1,613,523	110,679	5·9
1931	1,872,668	120,067	6·4

The Indian percentages for the Irrawaddy and Tenasserim Divisions for the most part showed increases. It will however be observed that the Indian percentages in Tenasserim were approximately the same in 1911 and 1931.

12. The facts as regards the Indian constituent of the population of Burma may here be conveniently summarised. It grew continuously in numbers and its rate of growth exceeded that of the population as a whole. In 1931 the Indian population represented 6·9 per cent of the total population, and accounted for 10·9 per cent of the inhabitants of Lower Burma and for 2·5 per cent of the inhabitants of Upper Burma. 21·6 per cent of the population of Arakan was Indian ; the next highest percentage, namely, 15·6 per cent was found in the Pegu Division while the populations of the Irrawaddy and Tenasserim Divisions were respectively 4·8 per cent and 6·4 per cent Indian.

13. Nine years have passed since the last census was taken on February 24th, 1931 and the time for a fresh enumeration is near. Meanwhile it may be of interest to hazard an estimate of the number of persons of Indian race in Burma in 1939. This is no easy matter because of the lack of reliable data on Indian births and deaths and also because of the substantial discrepancies between the returns of immigrants and emigrants made by the shipping companies to the Port Commissioners and the records kept by the Port Health Officers. The probable error in any calculations based upon these data is considerable and an estimate of the size of the Indian population in 1939 can only be regarded as a rough approximation.

The sources from which the data are drawn are described in *Appendix* 7. On the basis of the available material Dr. H. Bernardelli has made three separate estimates of the Indian population in intercensal years and believes it to have been in the neighbourhood of 918,000 persons towards the end

of 1939. If this estimate is somewhere near the mark, the Indian population in late 1939 had declined by about 100,000 since 1931. For the figures on which the calculations were based and the statistical method by which the estimates were arrived at, readers are referred to *Appendices 6 and 7.*

It would be unsound at this stage to base any conclusions upon speculative estimates suggesting a decline of the actual Indian population. In addition to the extreme inaccuracy of the data upon which such estimates must in the meantime be based, the long term trend of the rate of growth of the Indian population is in excess of that of the population as a whole, and in addition the percentage of Indians born in Burma has been steadily increasing, which clearly indicates increased settlements by families and therefore a further increase of Indians born in Burma.

14. The numbers of the Indian population in Burma as a whole, in Lower Burma, in Upper Burma and in the Arakan, Pegu, Irrawaddy and Tenasserim Divisions of Lower Burma have already been shown as they were at the successive census dates. A more detailed statement of the geographical distribution of the Indian population as it was at the time of the 1931 census is given in *Appendices* 1 and 2.

83·4 per cent of the total Indian population was found in Lower Burma, 13·2 per cent in Upper Burma and 3·3 per cent in the Shan States and Karenni. Rangoon and Akyab Districts accounted between them for 42 per cent of the whole, the percentage in each case being 21. The next highest percentage, namely, 7 per cent, was found in Hanthawaddy District. Pegu and Insein had percentages of 5 and 4 respectively. Omitting Akyab where the conditions are special in that it has a land frontier with India and has a large settled Chittagonian agricultural population, it will be seen that the great bulk of the Indian population was found in Rangoon and the districts within easy reach of the capital and connected with it by rail and river.

15. The distribution of the Indian population for selected areas in Lower Burma is set forth in the following table :—

Indian Population in Selected Areas of Lower Burma at the 1931 Census.

(Numbers other than percentages are the nearest whole thousand.)

Area. (1)	Persons. (2)	Percentage of total population of area. (3)	Percentage of Indian population in Lower Burma. (4)
Akyab District	211	33	24·8
Rangoon District	213	53	25·1
Pegu District	51	10	6·0
Hanthawaddy District ...	66	16	7·8
Insein District	44	13	5·2
Bassein District	24	4	2·8
Myaungmya District ...	28	6	3·3
Pyapôn District	34	10	4·0
Thatôn District	34	6	4·0
Amherst District	41	8	4·8
Toungoo District	30	7	3·5
Rest of Lower Burma ...	74	3	8·7
Total ...	**849**	**10·9**	**100·0**

33 per cent of the population in Akyab District was Indian, mostly composed of Chittagonians engaged in agriculture. Elsewhere it will be noticed that in general the Indian percentages were highest in the districts near Rangoon which was itself a 53 per cent Indian town.

16. In Upper Burma the Indian population was distributed as under :—

Distribution of Indian Population in Upper Burma at the 1931 Census.

(Numbers other than percentages are the nearest whole thousand.)

Area.	Persons.	Percentage of total population of area.	Percentage of Indian population in Upper Burma.
Magwe Division	28	2	21
Mandalay Division	62	4	46
Sagaing Division	44	2	33
Total ...	**134**	**2·5**	**100**

Of the Upper Burma Divisions, the Mandalay Division had the highest proportion of Indians in its population. The greatest concentration was in Mandalay City where 28 per cent of all the Indians in the Division were found and of whose inhabitants they constituted 11·5 per cent.

17. The Indian population in the Shan States and Karenni and the proportion which it represented of the total population in these areas were as follows at the 1931 census :—

Indian Population in the Shan States and Karenni at the 1931 Census.

(Numbers other than percentages are the nearest whole thousand.)

Area.	Persons.	Percentage of population of area.
Shan States ...	33	2
Karenni ...	2	3

18. It would be of interest to know the net annual increase or decrease in the Indian population in Burma due to immigration from and emigration to India and to follow the course of the fluctuations year by year in the incoming and outgoing passengers. Unfortunately the records are so flagrantly at variance and lead to conclusions so widely different that it seems hardly worth while trying to draw any inferences whatsoever from such dubious material. Nevertheless for what they are worth, the existing data are presented in the three tables in *Appendices 6 (a), (b) and (c)*. Table (*a*) is a statement of all incoming and outgoing passenger traffic, Indian and other, into Burma from 1900 to 1938 and Table (*b*) is a statement of the number of Indian incoming and outgoing passengers by sea as recorded at the port of Rangoon. They are based on the records of the Public Health Department. The figures in Appendix 6 (*a*) are based on the information supplied by the

Port Health Officers at Rangoon, Akyab, Moulmein, Bassein, Tavoy and Mergui. For ports other than Rangoon the figures of incoming and outgoing passengers are Shipping Companies' figures and represent the number of tickets sold. For Rangoon, the figures for incoming passengers are obtained by counting entrants and include infants and passengers travelling without tickets. The figures for outgoing passengers from Rangoon to other than Indian ports are the result of an actual count while those for the Indian ports are obtained from Shipping Companies and represent the number of tickets sold. To obtain a more accurate estimate of the excess of incoming over outgoing passengers, the Public Health Department has, since 1931, used the Shipping Companies' figures (that is, the number of tickets sold) for passengers to and from Indian ports. To illustrate the great disparity between the count and the ticket figures, the figures based on the Shipping Companies returns are shown in brackets in *Appendix 6 (a)* for 1931 and subsequent years. It will be observed that whereas the count showed an excess of incoming over outgoing passengers for the period 1931 to 1938 of 198,000 persons, the ticket-travelling figures resulted in an excess of only 10,000.

Appendix 6 (c) is a statement of the number of passengers by sea to and from Indian ports at Rangoon between August 31st, 1925 and August 31st, 1939. The figures are taken from the published statements of the Labour Commissioner's Office and are compiled from the record of sea passengers embarking or disembarking from Indian ports at Rangoon, kept by the Port Commissioners and based on the monthly returns of the Shipping Companies. Until the year September 1st, 1937 to August 31st, 1938 the returns included passengers to and from Arakan Ports as to and from Chittagong. There is no means of ascertaining the extent to which the Arakan figures affect the incoming and outgoing figures. For the two years for which returns are available, namely, April to March 1937-38 and 1938-39, 12,606 passengers landed at Rangoon from Arakan Ports and 12,019 left Rangoon for these destinations, that is, incomings and outgoings approximately balanced one another.

A summary statement of the tables in *Appendices 6 (a), (b) and (c)* is given below :—

APPENDIX 6 (*a*).

Statement showing the Number of Passengers by Sea Landed at and Embarked from Ports in Burma.

Calendar years.	Excess of incoming over outgoing.	
	Number.	Average annual.
1901—1910	304,000	30,000
1911—1920	467,000	46,700
1921—1930	481,000	48,000
1931—1938	(Count) 198,000 (Ticket) 10,000	(Count) 24,750 (Ticket) 1,250
1913—1920	414,000	51,750

APPENDIX 6 (*b*).

Statement showing the Number of Passengers by Sea to and from Indian Ports as recorded at the Port of Rangoon.

Calendar years.	Excess of incoming over outgoing.	
	Number.	Average annual.
1913—20	585,129	73,141
1921—30	612,505	61,250
1931—38	225,659	28,207

APPENDIX 6 (*c*).

Statement showing the Number of Sea Passengers to and from India at Rangoon.

Year—September to August.	Excess of incoming over outgoing.	
	Number.	Average annual.
1925—39	165,000	11,000
1925—30	113,000	19,000
1931—38	71,000	9,000
1931—39	52,000	6,000

In face of the discrepancies in the records any attempt to draw conclusions from the figures seems impossible. In the first table it will be noticed that the excess of incoming over outgoing for the period 1931—1938 was 198,000 on the count basis and 10,000 on the Shipping Companies' estimate of the number of tickets sold, a difference which makes the figures worthless. Again it would hardly seem credible that the excess of Indian incoming over Indian outgoing passengers entering or leaving the port of Rangoon for the period January 1st, 1931 to December 31st, 1938 could have been 225,659 if the excess for the period September 1st, 1931 to August 31st, 1938 was only 71,000 persons.

19. The only value of the immigration and emigration statistics for the purposes of this enquiry is as evidence of the trends in the incoming and outgoing movements. It will be observed that the immigrant figures were high in the decade ending 1929 and showed a considerable decline from 1930 onwards. The same tendency appears in the emigrant figures though the

decline began some two years later. The explanation of this time lag is simple enough. Indian immigrants ordinarily spend from two to four years in Burma before going home, the period being shorter or longer according as the savings they accumulate are greater or less. Immigrants arriving in 1927 and 1928 would expect to revisit their homes in India in about 1930 and 1931. High immigrant figures in 1927 and 1928 would therefore connote high emigrant figures about 1930 and 1931. The feature of the present as compared with the previous decade is a considerable decline in the number both of immigrants and emigrants and a large diminution in the excess of immigrants over emigrants.

20. It is of interest to determine the causes which govern the periodic fluctuations in the volume of Indian immigration and emigration. Immigrants are in search of work and it would seem reasonable to suppose that they come to Burma either because employment at home is hard to find or is not sufficiently remunerated to content them and because they expect to find work more easily in Burma or earn higher wages. The evidence indicates that wage levels in Burma, though only sufficient to support a low standard of living, are attractive to the Indian immigrant in comparison with the levels in his province of origin. As already stated, he comes with the intention of staying in Burma for three years or thereabouts after which he revisits his home and in the majority of cases returns to Burma after an interval varying from a few months to the best part of a year, but probably on an average of about six months.

As the Indian immigrant is attracted to Burma by the expectation of employment and the hope of higher wages than at home, a possibly profitable line of enquiry as to the causes which determine the periodic variations in the volume of immigration and its corollary emigration, would seem to lie in relating the annual variations to the economic conditions prevailing in Burma (or in India) at the time. A convenient and tolerably satisfactory index of these conditions is to be found in the annual variations in the value of Burma's foreign trade [*Appendix 8*]. This is admittedly a somewhat crude index since it is subject to the influence of inflationary or deflationary movements in price levels. The steep and rapid rise in foreign trade values which began in 1917 is an instance of inflation of price levels.

Figure 1 [*Appendix 9 (a)*] shows from 1913 onwards the variations in the numbers of all Indian immigrants and emigrants and of female immigrants together with the variations in the value of Burma's external trade for the same period.

Figure 2 [*Appendix 9 (b)*] shows the variations in the numbers of sea passengers landed at Rangoon from all India and also from the ports of Calcutta, Madras, Chittagong and the Coromandel Coast from 1925 to 1939 and the variations in external trade values for the same period.

Figure 3 [*Appendix 9 (c)*] shows the variations in the number of sea passengers to India from Rangoon for all Indian ports and separately for the ports of Calcutta, Madras, Chittagong and the Coromandel Coast from 1925 to 1939 and again the external trade values for the same period.

It will be seen (Figures 1 and 2) that the variations in the numbers of immigrants correspond fairly closely with variations in external trade values. The higher the values, the larger is the volume of immigrants. All the curves in Figure 2 with the exception of the Chittagong curve support this thesis. The data from which the Chittagong curve is derived are probably the least reliable of all the data. How far the maintenance of the high level of immigrants from Chittagong as late as 1932-33, while the number of other Indian immigrants had been falling for some years, was due to causes having their origin outside Burma is not known.

A scrutiny of the curves in Figure 1 for 1926—30 reveals that trade values began to decline earlier than the numbers of immigrants. Although Burma maintained a high level of prosperity up to 1929-30, trade values had already begun to fall although not so markedly as in India and the number of immigrants continued to rise, a fact which helps to explain the maladjustment in 1929 to 1931.

Certain minor variations are noticeable in the curves in Figure 2 for Madras and the Coromandel Ports which may be due to local conditions in the areas served by these ports. But in general the curves correspond with that of the external trade values.

The failure of the immigrant population to adjust itself quickly to the economic conditions prevailing in 1929 to 1931 manifests itself clearly in the curves in Figure 3. Many immigrant workers must have found employment less easy to obtain and have been obliged to accept lower wages. And they must in consequence have experienced increasing difficulty in repaying the money they had borrowed to enable them to come to Burma and in saving enough to go back home. Besides, conditions in India were not such as to make them anxious to return. It seems probable, therefore, that although the volume of emigration was high in 1930, a considerable number of Indian immigrants must subsequently have found themselves caught in Burma by the depression and have been unable to return to India as soon as they otherwise would.

The general inference which it would seem legitimate to draw from Figures 1 *to* 3 in *Appendices* 9 (*a*) to (*c*) is that a major determining influence at work as regards the volume of Indian immigration and as a corollary Indian emigration is to be found in the degree of economic prosperity which Burma experiences at any given moment. The more prosperous the conditions, the greater the volume of immigration and, allowing for the time lag, of emigration.

The relationship, however, between the volume of immigrant Indian labour available and conditions of economic prosperity in Burma indicated by trade values can never be a simple one. The time lag of two to three years already indicated would of itself account for periods of quite serious maladjustment and actually the depression in Burma between 1931 and 1934 was clearly a price phenomenon for the volume of goods to be handled which regulates the demand for labour, particularly unskilled, was maintained at a very high level. It would be unsound to conclude therefore that the movement of immigrant Indian labour was sufficiently self-regulated as to give rise to no problem.

CHAPTER III.

BIRTHPLACE.

21. The series of tables in this chapter is designed to show the extent to which the Indian population (including Nepalese) was composed of immigrants at the several census dates. Column 3 is entitled " Born in India ". Actually the 1931 figures represent the number of Indians born outside Burma. This is a distinction without much difference as Indians born outside Burma may for all practical purposes be assumed to have been born in India.

All Burma.

Census. (1)	Total Indian population. (2)	Born in India. (3)	Percentage born in India. (4)
1881	243,123	184,748	76·0
1891	420,830	282,947	67·2
1901	568,263	419,863	73·9
1911	743,288	499,696	67·2
1921	887,077	586,242	66·1
1931	1,017,825	630,090	61·9

It will be noticed that there were considerable declines in the Indian percentages on the last three census dates.

Lower Burma.

Census. (1)	Total Indians in Lower Burma. (2)	Born in India. (3)	Percentage born in India. (4)
1881	243,123	184,748	76·0
1891	355,454	237,965	66·9
1901	497,981	358,125	71·9
1911	651,459	424,743	65·2
1921	763,043	490,521	64·3
1931	849,481	507,806	59·8

The percentages for Lower Burma are appreciably influenced by the high proportion of the Indian population in the Arakan Division which was born in Burma. At the 1931 census nearly 77 per cent of the Indians in Arakan were born in the country. In Lower Burma excluding Arakan, the percentage of the Indian population born in Burma was low amounting to only 27·6 per cent. Separate figures for Arakan and Lower Burma excluding Arakan, are given below. It will again be remarked that the percentages register declines, indicating that the proportion of the Indian population which is immigrant is diminishing.

Arakan Division.

Census. (1)	Total Indians in Arakan. (2)	Born in India. (3)	Percentage born in India. (4)
1881	113,557	71,104	62·6
1891	137,922	62,884	45·6
1901	173,884	76,445	44·0
1911	197,990	46,591	23·5
1921	206,990	51,825	25·0
1931	217,801	50,565	23·2

Lower Burma excluding Arakan Division.

Census. (1)	Total Indians. (2)	Born in India. (3)	Percentage born in India. (4)
1881	129,566	113,644	87·7
1891	217,532	175,081	80·5
1901	324,097	281,680	86·9
1911	453,469	378,152	83·3
1921	556,053	438,696	78·9
1931	631,580	457,241	72·4

In Upper Burma, the Shan States and Karenni, there were in 1931 168,444 Indians of whom 122,284 were born in India, that is, 72·6 per cent, or practically the same percentage as in Lower Burma excluding Arakan. The growth of the Indian population and the proportions of it born in India in the above areas are shown below :—

Indians in Upper Burma, Shan States and Karenni.

Census. (1)	Total Indians. (2)	Born in India. (3)	Percentage born in India. (4)
1901	70,282	61,738	87·8
1911	91,829	74,953	81·6
1921	124,034	95,721	77·2
1931	168,444	122,284	72·6

The Indian population in Upper Burma, the Shan States and Karenni increased by 44,410 between 1921 and 1931, that is, by 35·8 per cent In the Shan States it increased by 94·8 per cent from 16,733 to 32,604 persons, some 41 per cent of whom were Gurkhas. There was an increase of 78 per cent in the Gurkha population in Burma between 1921 and 1931 the numbers having risen from 22,251 to 39,532. One-third were found in the Shan States ; one-third in Myitkyina and Katha ; the remainder were widely scattered, the only other district containing a large number being Mandalay where there were 3,377 Gurkhas.

22. The birthplaces of Indians born in India were not tabulated by districts at the 1931 census. For information on this point one must go back to the census of 1921 where it appears that four districts in Bengal, seven in Madras, three in Bihar and Orissa and four in the United Provinces supplied 53 per cent of all Indian immigrants and probably, according to the census report, a considerable part of those for whom the district of birth could not be identified. The districts from which the largest numbers of immigrants came are shown below :—

1921 Census : Indian Immigrants by birth place.

Districts in India.	Numbers in Thousands.
Chittagong (Bengal)	88
Ganjam (Madras)	49
Vizagapatam (Madras)	36
Godaveri (Madras)	26
Fyzabad (United Provinces)	18
Tanjore (Madras)	14
Ramnad (Madras)	13
Sultanpur (United Provinces)	12
Calcutta (Bengal)	11

Telugus came chiefly from the Ganjam, Godaveri and Vizagapatam Districts ; Tamils from Ramnad and Tanjore ; two-thirds of the Oriyas were from Ganjam ; four-fifths of the Bengalis and Chittagonians from Chittagong and the Hindustanis from Sultanpur and Fyzabad. The figures for Calcutta are probably too high, owing to the port of departure being recorded instead of the districts of origin. Tamil and other immigrants from the extreme south of India usually embark at Madras ; Telugus and most of the Oriyas at the Coromandal ports ; Bengalis, Hindustanis, Gurkhas, Punjabis and other northern Indian races at Calcutta. Chittagonians arriving by sea mostly embark at Chittagong but some embark at Cox's Bazaar.

23. *Appendices* 3 and 4 show the numbers of Indians "born in" and "born outside" Burma by race and for selected areas at the time of the 1931 census, when the "born out" constituted about 62 per cent and the "born in" about 38 per cent of the total Indian population. But the preponderance of the "born outs" was in fact greater than these percentages indicate because of the influence on them of figures for Akyab District where 79 per cent of the Indian population was born in Burma, evidence of the presence in that district of a large and established Chittagonian agricultural community. If Arakan is excluded, it will be found that 72·4 per cent of the Indian population enumerated in Lower Burma in 1931 was born outside Burma. The highest proportion of all was found in Rangoon where 84·3 per cent of the Indian inhabitants were born outside Burma. The following table shows the numbers of Indians born in and born outside Burma as recorded at the 1931 census for the more important of the Indian races. It illustrates in summary form the degree to which the Indian population was predominantly immigrant.

Indians "Born in" and "Born outside" Burma by race to nearest whole thousand.

Races.	Total.	Born in.	Born out.
Chittagonians ...	252	169	83
Tamils	150	66	84
Hindustanis ...	175	50	125
Telugus	160	28	132
Bengalis	66	25	40
Oriyas	62	5	58
Others	153	45	108
All races ...	**1,018**	**388**	**630**

CHAPTER IV.

AGE AND SEX.

24. It is necessary to consider the age and sex distributions of the Indian population since these are among the factors which will determine the future racial composition of the population of Burma. The series of tables and diagrams in *Appendices 10 to 12* give a sufficiently complete picture for the purposes of this enquiry, of the age and sex distributions of the indigenous and Indian populations at the time of the 1931 census. It will be seen that the distributions for the indigenous races were those of a balanced and stable community whereas the exact contrary was the case as regards the Indian population. Except in Akyab District where the Indian community is predominantly settled, the age and sex distributions of the Indian population were in a state of acute disequilibrium due to the presence of a large excess of immigrant males especially in the age groups of 15 years and over. The abnormal age distribution of Indian males at the 1931 census is shown in the following table :—

Age distribution per 10,000 Males.

Age group.	Indigenous Races.	Indians.	
		Burma *less* Akyab District.	Rangoon.
0— 5	1,397	565	329
5—10	1,282	535	362
10—15	1,186	576	448
15—20	916	1,023	1,092
20—30	1,724	3,051	3,410
30—40	1,380	2,389	2,638
40 and over	2,115	1,861	1,721
Total ...	**10,000**	**10,000**	**10,000**

CHAPTER VII.

INDIANS IN ARAKAN.

66. Indian immigration into Arakan shows special characteristics, due fundamentally to the existence of a land frontier with India across which movement between Chittagong in the province of Bengal and the Akyab district in Arakan is, because of the natural configuration of this region, easy, quick and cheap. About 97 per cent of the Indian population in Arakan in 1931 was concentrated in Akyab District. The following figures give a summary view of the main facts as they were at the time of the 1931 Census.

Arakan Division.

Total Population	...	1,008,538
Indian Population	...	217,801

The Indian population was distributed as under :—

Akyab District	...	210,990
Arakan Hill Tracts	...	500
Kyaukpyu District	...	4,321
Sandoway District	...	1,990
Total	...	217,801

Akyab District.

Total Population	...	637,580
Indian Population	...	210,990

The numbers of Indians in Akyab District born in and outside Burma respectively were as follows :—

—	Born in Burma.	Born outside Burma.
Male	86,000	38,000
Female	81,000	6,000
Total ...	**167,000**	**44,000**

Females constituted 48·5 per cent of the Indians born in and 13·6 per cent of the Indians born outside Burma. The great deficiency of females in the "born out" population indicates the highly immigrant and unsettled nature of that part of the Indian population while on the other hand the approximation to sex equilibrium in the "born in" population is indicative of its settled character.

67. The main racial constituents of the Indian population in Akyab District were as follows :—

—	Total.			Born in.			Born out.		
	Male.	Female.	Total.	Male.	Female.	Total.	Male.	Female.	Total.
Chittagonians ...	104,769	81,558	186,327	80,680	76,153	156,833	24,089	5,405	29,494
Bengalis (other than Chittagonians).	10,998	4,588	15,586	5,320	4,276	9,596	5,678	312	5,990
Hindustanis ...	2,955	632	3,587	311	366	677	2,644	266	2,910
Oriyas	3,809	10	3,819	18	4	22	3,791	6	3,797

The Oriyas were practically all born outside Burma and were practically all male. Only 677 of the 3,587 Hindustanis were born in Burma and 2,955 of the total were males. Of the Bengalis other than Chittagonians, 61 per cent were born in Burma. Of the "born in", the sex ratio was about four females to five males. Of the 5,990 Bengalis born outside Burma only 312 were females. Over 88 per cent of all the Indians in Akyab District were of Chittagonian origin and 84 per cent of all Chittagonians in Akyab were recorded as having been born in Burma. The sex distribution of Chittagonians born in Burma was in the proportion of 94 to 95 females to every 100 males while that for Chittagonians born outside Burma was in the ratio of 22 to 23 females to every 100 males.

68. There were 71,306 male Indian earners in Arakan at the 1931 Census, 69,461 of whom were occupied as under :—

Occupation.	Number.
Agriculture	42,947
Clerical Workers	744
Craftsmen	3,347
Unskilled and Semi-skilled labourers ...	16,429
Traders and Shop assistants	5,994
Total ...	**69,461**

Of the male earners engaged in agriculture, 9,442 were cultivating landowners, 12,848 were cultivating tenants and 19,436 were agricultural labourers. It is of interest to note that only 5,570 of the agricultural labourers were born outside Burma and to remember that the census was taken on February 24th, 1931, that is, when the paddy had all been harvested and most of the immigrant Chittagonian reapers had either returned to their homes or had gone in search of work in the rice mills, in the port of Akyab, as boatmen or elsewere. No information on which any reliance can be placed seems to exist regarding the number of Chittagonians who come to Akyab every year to reap the paddy crop. In 1930-31 the then Director of Public Health reckoned that in a normal year not less than 40,000 coolies entered the Akyab District from Chittagong. These Chittagonian immigrants would not all be agricultural labourers. Some would be boatmen and others engaged in a miscellany of occupations. But it is known that the bulk of the Chittagonian immigrants come for the harvest and it is hard to believe that anything like an annual influx of 40,000 Chittagonians could find work as harvesters, or indeed as anything else, in Arakan which at the 1931 Census returned a total number of male earners of all races and in all occupations of only 251,945. The Commissioner of the Arakan Division in 1934 thought the number of Chittagonian immigrant agricultural labourers in Arakan was probably about 20,000 during the harvest season.

Unlike Indian immigrants in general in other parts of Burma who commonly spend periods of three years or thereabouts in the country without returning home, the bulk of the Chittagonian immigrants in Arakan who come to reap the paddy crop go back to Chittagong when the harvesting operations are over. The nearness of their homes and the small amount of money required for the journey make this possible.

69. Eight Arakanese witnesses, seven of whom were members of the Legislature, maintained that Chittagonian penetration in Arakan is steadily continuing and is resented not only by the Arakanese proper but also by the settled Chittagonians. The witnesses claimed that these classes could not compete with the cheap labour supplied by the new entrants whose standard of living was lower and who were an extremely hard-working folk. The view was expressed that it was inadvisable to let Chittagonian immigration go unchecked as it contained the seed of future communal troubles. All the witnesses agreed that immigration from Chittagong should be restricted. It appeared to be generally believed that the settled population in Arakan could reap the paddy crop to a much greater extent than is now the case if cheap Chittagonian labour were less easy to find. It was thought that the restriction of immigration would result in an increase in wages which in its turn would bring forth a supply of local labour. The witnesses seemed to have no doubt that a considerable amount of labour already existed which was not prepared to come on the market for the wages paid to the Chittagonian immigrants but would come forward if the wages offered were higher. It was admitted that although it is difficult to assess the extent to which immigrant labour is necessary to harvest the paddy crop, some immigrant labour is required. The witnesses were of opinion that it should be possible to devise an administratively practicable scheme by which the numbers of Chittagonian immigrants could be progressively diminished. In any case they were all agreed that restriction was desirable.

CHAPTER VIII.

Labour Employed in the Port of Rangoon.

70. Circumstances in recent years have tended to focus public attention upon the composition of the labour force employed in the port of Rangoon. The Royal Commission on Labour in India, 1929-30, called attention in its Report to various unsatisfactory features of the conditions of employment in the port and decided that "a policy of decasualisation was urgently needed." The Coringhi riots, 1930, expressed the growing resentment of Burmese workers at their inability to secure employment at the docks in competition with immigrant Indians, and the movements since Separation from India to open up additional avenues of employment for Burmans have brought into prominence the anomaly that in the capital city of the country, which as a port handles approximately nine-tenths of the total trade, the greater part of the work should be carried out by Indians.

In the present enquiry, use has been made of material collected in 1934 by Mr. Searle, supplemented by valuable memoranda submitted by the Chambers of Commerce and by private individuals as well as the evidence obtained orally from a large number of witnesses with special knowledge and experience of dock labour in Rangoon. Reference may also be made to the Interim Report of the Rangoon Industrial Inquiry Committee published on the 10th of August, 1940, which gave its attention first of all to the same problem of dock labour.

71. This enquiry has been no more successful than previous attempts at arriving at any precise figure of the total number of workers employed in the port of Rangoon, nor has it been possible to classify the workers accurately

Extract from Debates in the Indian Legislative Assembly on 4 November 1941

Pages 347 +

THE INDO-BURMA IMMIGRATION AGREEMENT AND THE JOINT REPORT OF THE INDO-CEYLON DELEGATION.

The Honourable Mr. M. S. Aney (Leader of the House): Sir, I lay on the table a copy each of:

(i) the Indo-Burma Immigration Agreement; and

JOINT STATEMENT BY THE GOVERNMENT OF INDIA AND THE GOVERNMENT OF BURMA.

In two Reports issued at the end of 1938 and early in 1939, the Riot Inquiry Committee, under the Chairmanship of the Hon'ble Mr. Justice Braund, drew particular attention to the existence of a serious apprehension in the minds of many Burmans that Indian immigration was largely responsible for unemployment or under-employment among the indigenous population of Burma. The Committee recommended that, in the interests of both countries, some public examination of the grounds for the existing apprehension in Burman minds should be undertaken urgently.

2. Accordingly the Government of Burma in a Resolution, dated the 15th July 1939, after consultation with the Government of India, appointed the Hon'ble Mr. James Baxter to examine the question of Indian immigration into Burma, with the assistance of two Assessors, U Tin Tut, I.C.S., and Mr. Ratilal Desai, M.A. Mr. Baxter presented his Report to the Government of Burma in October 1940. His recommendations were carefully examined by both Governments and it was agreed without commitment on either side that these recommendations formed a suitable basis for negotiation. The Government of Burma, therefore invited the Government of India to send a delegation to Burma and the invitation was gladly accepted.

3. As a result of the conversations the two Governments have agreed upon certain measures which in their view are calculated both to remove from Burman minds any reasonable apprehension that Burma may be subjected to undue economic competition by reason of Indian immigration and at the same time to secure for the Indian community settled and resident in Burma recognition of their legitimate rights.

4. The text of the agreement is attached to this statement. The agreement is based upon two main principles, firstly, that Burma has, subject to the provisions of the Government of Burma Act, 1935, the right to determine the composition of her own population, and secondly, that Indians who have wholly identified themselves with the interests of Burma should enjoy the same rights as members of the permanent population.

5. It is obvious that in the peculiar circumstances of the two countries, their geographical proximity, their cultural and economic ties and their long political association, the problems arising from regulation of immigration are of special complexity and delicacy. Both Governments have approached these problems in a spirit of cordiality and mutual understanding and are agreed that in giving administrative effect to the measures now proposed the closest co-operation will be required in the same spirit of mutual adjustment and identity of purpose which characterised the negotiations. It is their earnest desire that the agreement now achieved will serve to remove any causes for misapprehension which may have arisen either between the two countries or between the two communities in Burma and may furnish a lasting foundation for the development in the future of the firmest ties of friendship and goodwill.

AGREEMENT.

Definitions.

1. In this Agreement, unless there is anything repugnant in the subject or context,—

(*a*) "dependant" means a person who is wholly and directly dependent for maintenance and support on a person who holds or is about to be granted a permit under the provisions of this Agreement and is related to such person as being—

(i) his wife, or
(ii) his or his wife's parent, or
(iii) his or his wife's daughter or grand-daughter who is either unmarried or a widow or is divorced, or
(iv) his or his wife's son or grandson who is under the age of 18 years or, being over that age, is permanently disabled and incapable of supporting himself ;

(*b*) "Indian" means a British subject domiciled in India or the subject of an Indian State ;

(*c*) "work", "skilled work" and "unskilled work" shall have the meanings assigned to them in Section 2 of the Indian Emigration Act, 1922.

Restriction in regard to the termination of the Government of Burma (Immigration) Order.

2. The Government of Burma agree that the notice given by them to terminate the operation of the Government of Burma (Immigration) Order, 1937, with effect from April 1st, 1942 will be treated as withdrawn and that notice to terminate the same will not be given before October 1st, 1945.

Date of Operation of Measure of Control.

3. Indian immigration into Burma will, with effect from the 1st October 1941, be subject to regulations and restrictions in the manner hereinafter explained.

Passports.

4. No Indian may enter Burma without a valid Indian passport containing his photograph and other particulars sufficient to establish his identity.

Passport *Visas* and Immigration Permits.

5. No Indian may enter Burma without a passport *visa* issued by or on behalf of the Government of Burma or an immigration permit issued by or under the authority of the Government of Burma.

Passport *Visas*.

6. (1) The Government of India, or officers employed by them, may issue, on behalf of the Government of Burma and subject to terms and conditions imposed by the Government of Burma, *visas* on passports granted to Indians desiring to enter Burma as visitors or as students in educational institutions.

(2) A *visa* on an Indian visitor's passport will be valid for three months but this period may be extended by or under the authority of the Government of Burma up to a total stay in Burma of twelve months.

(3) A fee of Rs. 20 will be charged for visitors' *visas* but no fee will be charged for extensions.

(4) A student's *visa* will be valid for a stated period not exceeding five years.

(5) No fee will be charged for a student's *visa*.

Immigration Permits.

7. (1) Save as otherwise provided by the terms of this Agreement no Indians may enter Burma without one of the following classes of permits :—

(i) " A " permits, which will entitle the holder to remain in Burma for an indefinite period and to accept employment therein. No bar will be placed on the acquisition of a Burma domicile by holders of " A " permits ;

(ii) " B " permits, which will entitle the holder to reside in Burma for a specified period and to accept employment therein. " B " permits, being for limited periods, will not allow the holders to acquire a Burma domicile. They will be issued for a maximum period of three years and may be extended at the discretion of the Government of Burma for further periods which, with the original period, may not exceed a total of nine years. The holder of a " B " permit may apply for an " A " permit on the same terms as an original applicant for an " A " permit, provided that any other terms and conditions so prescribed shall not be inconsistent with the objects of this Agreement.

(2) The issue of immigration permits will be subject to the terms and conditions set out in this Agreement and also to such other terms and conditions as the Government of Burma may prescribe after consulting the Government of India. The acceptance of these terms and conditions shall be a condition for the entry of the immigrants into Burma.

Restrictions on the numbers of Permits and *Visas*.

8. (1) The number of " A " permits to be issued will be at the discretion of the Government of Burma and they will be issued only to persons whom the Government of Burma consider to be of sufficient financial standing or possessed of an assured income in Burma of sufficient amount and to be persons who are likely to be suitable for permanent residence in Burma.

(2) " B " permits will be issued within such limits as may be prescribed in any year or other period by the Government of Burma after considering the advice of an Immigration Board.

(3) The Government of Burma reserve power to impose limits on the number of students and visitors' *visas* to be issued by the Government of India on their behalf.

Dependants of Immigrants with " A " Permits or " B " Permits.

9. (1) Applicants for " A " or " B " permits will be required to declare particulars of dependants whom they intend to bring to Burma either with them or at some future date.

Declared Dependants.

(2) Should the applicant receive his permit, dependants declared under sub-clause (1) will be granted on application by the former the same class of permit as the applicant.

Undeclared Dependants.

(3) Other dependants of the applicant may also, on application by him and at the discretion of the Government of Burma, be granted the same class of permit.

Limit validity of Dependants' Permits.

(4) The period of validity of a permit granted to a dependant will not extend beyond the period of validity of the permit held by the person on whom they are dependent.

Land Frontier Migration.

10. The two Governments will co-operate in devising and effecting measures to deal with and to control immigration across the land frontier between the two countries. It is understood that this will require consultation by the Government of India with the Provincial Governments concerned.

Immigration Board.

11. The Government of Burma will institute at an early date an Immigration Board to examine the relevant data and to tender advice to the Government of Burma generally on matters of policy relating to Indian immigration into Burma and in particular on the fixing of quotas for the grant of permits. The Board will be of mixed racial composition and Burmans, Indians and Europeans will be represented on it.

Penalties for Unlawful Entry or Unlawful Residence in Burma.

12. The penalties imposable under Burma Legislation shall not exceed imprisonment of six months or a fine of Rs. 1,000, or both, on persons convicted before a Magistrate of an infringement of the immigration rules or of a breach of the conditions of a permit, or of making a false statement in order to obtain a permit or other privilege relating to entry to or residence in Burma or to secure registration as a privileged immigrant.

Literacy Test.

13. The Government of Burma may impose a literacy test on applicants for " A " permits :

Provided that such a test shall not be made in Burmese or in any other language indigenous to Burma.

Marriages or cohabitation between Indian male immigrants and women belonging to the indigenous races of Burma.

14. Marriage or cohabitation with a woman belonging to the indigenous races of Burma established to the satisfaction of the Government of Burma may be made a condition for the cancellation of a permit or *visa* granted to a male Indian immigrant :

Provided that exceptions will be made of marriages entered into with the sanction of the Government of Burma and that such sanction will be given if the immigrant makes, before the proposed marriage, provision which is sufficient in the opinion of the Government of Burma for the permanent maintenance of the woman he desires to marry.

Fees for Permits.

15. The following scale of fees will be charged for immigration permits :—

" *A*" *permits*.—Rs. 500.

" *B*" *permits*.—For unskilled labourers, an entrance fee or a *visa* fee, of Rs. 12 plus a residential fee of Rs. 5 for every year or part of a year for which the permit will be valid. For other " B " permits, an entrance fee or a *visa* fee of Rs. 30 and a residential fee of Rs. 20 for every year or part of a year for which the permit is valid. Arrangements will be made to enable immigrants to pay the residential fee in yearly instalments if they so desire.

Dependants.—Half the rate per dependant of the fees payable by the immigrant himself.

Collection from Employers of *visa* or Entrance Fees for " B " Permits.

16. The Government of Burma accept the principle that the incidence of entrance or *visa* fees and of the stamp duty charged in respect of " B " permit holders should fall on the employer and undertake to collect such fees from the employer or prospective employer in cases where a permit is issued at his instance.

Deposits.

17. Before entry into Burma a deposit of Rs. 20 will be made to the Government of Burma by persons who are granted " B " permits and by their dependants to cover the cost of repatriating them. Repatriation will be at the choice of the repatriated Indian, to the ports of (*a*) Calcutta, (*b*) Chittagong, (*c*) Madras (*d*) Vizagapatam and (*e*) Gopalpur. The deposit will be refunded if the person concerned leaves Burma of his own accord or obtains an " A " permit.

18. Applications for all classes of permits under the immigration control arrangements shall be subject to stamp duty under the ordinary law of Burma.

Stamp Duty.

PROVISIONS RELATING TO INDIANS ALREADY IN BURMA.

19. The Government of Burma recognise that Indians who are born and bred in Burma, have made Burma their permanent home and regard their future and the future of their families as bound up with its interests are entitled to be regarded as having established a claim if they wish to make it, to a Burma domicile and therefore to the benefit of Section 144 of the Government of Burma Act, 1935.

Indians who are born and bred in Burma and who have made Burma their permanent home.

20. No restriction will be placed on the acquisition of a Burma domicile under due process of law by Indians lawfully residing in Burma excepting those who by the terms and conditions of a permit which entitles them to reside in Burma are not given the right of residence beyond a specified period.

Acquisition of Burma domicile by Indians in Burma.

21. Indians who prove a total residence in Burma of seven calendar years between the 15th July 1932 and the 15th July 1941 will be termed " privileged immigrants."

Privileged Immigrants.

Such privileged immigrants shall have the right to further residence and to the acceptance of further employment in Burma without limit of time but they will lose their status as privileged immigrants should they be absent from Burma for a continuous period exceeding one year after the 15th July 1941.

A privileged immigrant, so long as he retains his status, will be given the right of free re-entry into Burma on his return after an absence of less than twelve months.

22. The following classes of dependants of a privileged immigrant will be given " A " permits free of charge for entry into Burma :—

Dependants of Privileged Immigrants.

(i) One wife if there is no other wife residing in Burma.
(ii) His sons below the age of 18 by the wife who is granted an " A " permit under this clause or by a wife residing with him in Burma.
(iii) His unmarried daughters by the wife who is granted an " A " permit under this clause or by a wife residing with him in Burma.

23. Other Indians who are in Burma on the 15th July 1941 will be entitled to remain in Burma indefinitely and to accept work for an indefinite period and will retain their privileges under Section 44 of the Government of Burma Act, 1935.

Indians who are already in Burma but have not qualified as Privileged Immigrants.

Should an Indian of this class leave Burma for any period, his claim to re-entry will be dealt with in the same manner as an application for entry by a new Indian immigrant and if re-admitted into Burma, such person will be treated as a new Indian immigrant with the exception that he will have a preferential claim to a " B " permit over new Indian immigrants

24. During the transition period pending the constitution of an Immigration Board and the consideration by the Government of Burma of proposals to be made by the Board for the quotas for permits to be issued to Indian immigrants, the Government of India will prohibit the emigration to Burma of Indians for the purpose of unskilled work from the 21st July 1941 with the exception of seasonal labourers who may, at the instance of the Government of Burma, be granted passports up to numbers agreed upon between the two Governments.

Transitory Provisions.

Registration of Indians in Burma.

25. The Government of Burma will institute at an early date a system of registering Indians in Burma.

GENERAL.

Power of Exemption.

26. The Government of Burma may exempt any person from any or all the conditions and restrictions that may be imposed under this Agreement.

Co-operation between the two Governments.

27. The two Governments will act in close co-operation to achieve the objects of the Agreement and will freely consult each other on points of difficulty that may arise.

In particular the Government of Burma will grant the Government of India an opportunity of commenting on proposals to fix quotas and on the recommendations of the Immigration Board on which such proposals are based.

G.B.C.P.O.—No. 56, Pre. Secy., 21-7-41—100—I.

Confidential.

Your confidential note, dated the 18th August, regarding Indian immigration. I would advise as follows:-

1. The Agreement reached between the two Governments in 1941 did not in itself have the force of law. In order that an agreement of this kind should have the force of law in either country it is necessary that it should be ratified in accordance with law; that is, if the Order in Council of 1937 was still in force, it had to be ratified by a new Order in Council under the proviso to section 138 of the Government of Burma Act; whereas if the Order in Council had terminated, the Agreement had to be ratified by an Act of the Legislature of each country passed in accordance with the provisions of the Government of Burma Act and the Government of India Act, respectively. The Agreement has never been ratified in any way, and, consequently, is not, and never has been, of any force or effect.

2. The wording of clause 4 of the Order in Council is ambiguous, and, in accordance with the ordinary rule of construction, it must be construed so as to give proper effect to all the words thereof. In my opinion, if that is to be done, the only way in which the clause can be construed is that the Order in Council automatically terminated at the end of three years from the 1st April, 1937, unless a notice to terminate the operation of the Order was given by the Governor of Burma during that period of three years, and then, if such notice were given, the Order in Council would terminate on the expiry of three years from the 1st April, 1937, or on a date twelve months after the issue of the notice, whichever date was later. In my opinion, it is impossible to hold that a notice under clause 4 could issue after the period of three years had expired, for, if that were possible, clause 4 would then mean that the Order terminated at the end of three years but could subsequently be revived for a period of twelve months by a notice of the Governor of Burma, and there must then be a hiatus between the date of the expiry of the period of three years and the date of the notice during which no Order in Council was in force, which is plainly absurd. Moreover, there is nothing in clause 4 to suggest that the Governor of Burma by unilateral action had the power to revive the Order in Council after it had expired under the provision for its continuance for a period of three years. Consequently, in my opinion, the Order in Council terminated on the 31st March, 1940. Therefore the notice given by the Governor of Burma on the 1st April, 1941, had no legal significance and was a mere nullity. For the same reason clause 2 of the Agreement regarding the operation of the Order in Council had no significance at all and was also a nullity.

3. But both Governments have acted on the assumption that the Order in Council was still in force in October 1941, and on this assumption have entered into the Agreement. Therefore it is necessary to consider the matter on the basis of this assumption. The issue of the notice of the 1st April, 1941, was a legal act done under a provision of law, namely, clause 4 of the Order in Council. An act which has been done under

the authority of law can be recalled or undone only under the authority of law. There is nothing in the Order in Council which permits the withdrawal of a notice which has been given under clause 4 thereof, and it is clear that no such withdrawal could be permitted; otherwise clause 4 of the Order would be rendered meaningless. The Governor of Burma had no authority to withdraw the notice of the 1st April, 1941, and therefore clause 2 of the Agreement was ultra vires.

4. The Agreement of October 1941 is one and indivisible: each clause is interdependent on all the other clauses: no clause can be brought into operation by itself. The clause regarding the withdrawal of the notice is dependent on all the other clauses, and the contracting parties never intended that the notice should be treated as withdrawn unless and until all the other provisions of the Agreement were carried into effect. No attempt has been made to implement any part of the Agreement except clause 24 thereof, and the Agreement has never been ratified in accordance with law. Consequently, the whole agreement has become void and inoperative, and clause 2 fell with the remaining clauses of the agreement.

5. Hence, from whatever viewpoint this question is considered, the answers to the questions propounded are the same, namely:-

(1) The notice was a nullity because the Order in Council had already terminated before the notice was given; but, on the assumption that the Order in Council was still in force, the abrogation of the other clauses of the Agreement includes the abrogation of clause 2 thereof, and therefore the notice given by the Governor of Burma had the effect of terminating the Order in Council on the 1st April, 1942.

(2) The agreement to regard the notice as withdrawn did not constitute in law a withdrawal of the notice. A notice once issued could not be withdrawn.

(3) The Order in Council terminated on the 31st March, 1940.

Sd/- H.F.Dunkley

26/8/44.

U Tin Tut, Bar-at-Law, I.C.S.,
Adviser, Reconstruction.

No. L.A 51/44(1437), dated the 28th August, 1944.

True copies,

Superintendent.