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on Jan 9

1

COLOURED FRANCHISE

The franchise qualification in the Cape is

- a) literacy
- b) £50 a year income, or
- c) fixed property to the value of £75.

(N.B. in Natal the income or property qualification is ~~£96~~.)

Income in kind may not be included for purposes of assessing income. This bears severely on Coloured farm workers.

Most seasonal farm labourers are disenfranchised since the income must have been earned during the preceding 12 months without a break in employment of more than a month.

NB. Literacy.

65%

NATAL

Extract from "A History of South Africa" by Eric A. Walker.

Page 238. 1864-1865.

"In Natal coloured folk were legally equal to Europeans but the Bantu were treated as a race apart. A monogamist Bantu could apply for letters of exemption from Native law, and such a one exempt for seven years and resident for twelve years in the colony could, on a certificate signed by three European electors and counter-signed by a magistrate, apply to the Lieutenant - Governor, who might at his discretion grant him the franchise. (Act II of 1865). Natives have since been known to run the gauntlet to the vote but before 1876 none of them had even taken out letters of exemption."

From "The Native Policy of Sir Theophilus Shepstone" by J.E. Sullivan.

Page 118.

"The following is a summary of Law 11/1865.

The applicant for the franchise had to be a resident of the Colony for twelve years; he must possess the requisite property qualification (i.e. own immovable property to the value of £50, or rent any such property of the yearly value of £10); he must be the holder of Letters of Exemption for seven years; he must produce a certificate signed by three qualified electors of European origin and endorsed by a Justice of the Peace or a Magistrate. Having complied with these conditions he has no claim to the franchise, but is merely entitled to petition the Governor to grant the privilege. The ultimate decision rests with the Governor who has often refused the certificate. The franchise once obtained cannot be considered a right."

Page 118

"By to-day (1928) only three Natal natives have qualified for it" (the franchise). N.B. no further applications for registrations of Africans were granted after 1910.

From "A History of South Africa" by Eric Walker.

Page 223. 1849.

Hence forward, racial differentiations distinguished Natal native policy from that of the Cape. Bantu were to be subject to native law in so far as it was not repugnant to the dictates of humanity, law administered by their own chiefs assisted by European 'Native Magistrates' with an appeal to the Great Chief, the Lieutenant-Governor and his Executive Council.

1953.

NORTHERN RHODESIA'S CONSTITUTION.

The differences between Europeans and Africans in Northern Rhodesia on the future constitution of that territory as a constituent part of the Central African Federation are unfortunate but not necessarily insuperable. Since agreement could not be reached by the two parties at the London conference, the Colonial Secretary, in pursuance of British trusteeship for native interests in Northern Rhodesia, has found himself obliged to impose a settlement regulating the proportionate representation of Europeans and Africans in the Legislative Council and the Executive Council.

The British Government looks to the day when the part played by racial consideration in the affairs of the territorial government will become negligible. It should then be possible to move from the present system of racial representation in the territorial legislature towards a system based on a widened franchise with no separate representation for the races. Meanwhile it is the Government's duty to ensure that, on contentious issues, the balance can be fairly held by the official members. Numerically, and in reference to the existing memberships of the Councils, the Colonial Secretary's decision appears to strike a fair balance between the claims of the two sides. But the Africans, who want full equality with Europeans, are naturally disappointed. Their argument really rests upon suspicion of the intentions of the new Federal Government. Under the federal system native affairs in Northern Rhodesia are left to the Government of that territory, in whose official and nominated members Africans see the assurance of Colonial Office control which, it is suggested, the Europeans hope will be eventually withdrawn. The Africans seek an insurance against the possibility of a future federal control of which they are distrustful.

During the London talks the African delegates asked whether it would be possible for British-protected persons to be given the franchise on the same terms as British subjects. This raises the whole question whether future political development in Northern Rhodesia should lie along the lines of the present arrangements for separate representation of the races until the long-term objective described above is reached, or whether it will be possible at some earlier stage to adopt some form of common roll which would give the balance of representation appropriate at the time. This is a difficult problem which will require very careful consideration. The Colonial Secretary is hoping to visit Central Africa next year, when he intends to take the opportunity to look personally into this and other issues affecting future political development in Northern Rhodesia.

970

Northern Rhodesia

(Information from High Commissioner obtained 26.11.53.)

At present the Legislative Council consists of:

4 officials

14 unofficial members - 10 elected by Europeans
 2 Europeans nominated to represent Africans
 2 Africans elected by the African Representative Council.

Africans have been pressing for the 2 nominated Europeans to be replaced by 2 elected Africans.

The Secretary of State has decided instead to retain the 2 nominated Europeans, but to increase the number of elected Africans to 4.

At the same time the Secretary of State mentioned the possibility of a change in the franchise qualifications to allow Africans who are not British subjects to be brought on to the common voters roll at some future date.

All except about 4 Africans ~~are~~ in N. Rhodesia are British protected persons - not British subjects.

To become subjects they have to pay £5, take the oath of allegiance to the Crown, be of good character & have sufficient knowledge of English to understand & be understood by officials.

Mr Welensky has recently argued that, whereas the Europeans have no objection to an eventual common roll, if this is introduced the Africans should give up their special status as protected persons (which carries with it immunity from the major responsibilities of citizenship) and become British subjects. This, he says, could be done by annexing the territory to the Crown (it is now a Protectorate).

Africans are opposed to this. They prefer Colonial
Office control to ^{fuller} control by the N. Rhodesian Legislative
Council and possible entire control in the future by
the Federal Parliament.

1953.

REPORT ON CONSTITUTIONAL DEVELOPMENT IN TANGANYIKACommissioner's Recommendations Debated.African World Correspondent.

Several months ago, Professor Mackenzie was appointed by the Colonial Office as Special Commissioner to examine matters arising out of a report on constitutional development in Tanganyika drawn up by a committee composed of Europeans, Africans and Asians appointed by the Governor, Sir Edward Twining, under the chairmanship of Mr. (now Sir) Charles Mathew, Member for Legal Affairs and now Chief Justice of Malaya. Professor Mackenzie's report was made public some time ago and both the people of Tanganyika and members of the Legislative Council given time to consider it in detail and express their views. On October 1 the report was tabled in the Legislative Council and, while there was unanimous praise for the work carried out by the Special Commissioner, and support for his recommendations, implementation of the report was deferred indefinitely as it was felt that the people of Tanganyika in no way desire any drastic changes at present. The country is being well administered, the people are contented, and much advancement has been effected during recent years.

During the debate in the Legislative Council several of the African members expressed their views. Most forceful were those put forward by Chief Kidaha, who sounded a cautionary note to those inclined to be headstrong in their political aspirations. He said that it would be most unwise to rush things "simply because political philosophers in certain parts of the globe think that elections and self-government are the panacea for all political ills". He also urged that there was no use in being sentimental and emotional about future constitutional development in this territory. "We have got to face realities," he said. "Some people would like self-government to-day, but when asked closely what they mean by self-government, few can give an answer. It was a fashionable catchword or phrase - one of the slogans used by politicians and heard all over East Africa to-day."

The debate was most impressive and the cautious approach made by members of Legislative Council in keeping with the high standard of statesmanship being shown by them and many others in Tanganyika, as a result of which race relations are probably better than ever before and co-operation in every sphere of activity outstanding. As the "Tanganyika Standard" commented in an editorial on the subject: "We in Tanganyika can be thankful that at the head of affairs we have a team far-sighted enough to approach local political problems in a sober and realistic manner, content to plan for the future step by step, without trying to force the pace."

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- NB. *The Legislative Council at present consists of: (End 1952)*
- a) *the Governor as President*
 - b) *15 ex-officio and nominated official members.*
 - c) *14 unofficial members. (7 Europeans, 3 Asians, 4 Africans) all nominated by the Governor. They are representative of the various communities & interests in the territory, but not of particular geographical areas, although they reside in different provinces.*

Federation of Rhodesia and Nyasaland.

The Federal Assembly will consist of a Speaker and 35 members.
Of the 35 members — 26 will be elected:

{ 14 by Southern Rhodesia
 { 8 by Northern Rhodesia
 { 4 by Nyasaland.

3 will be Europeans charged with special responsibility for African interests (1 from each Territory)

6 will be Africans (2 from each Territory).

Southern Rhodesia.

- a) All those on the common roll (including about 460 Africans) will vote for the 14 representatives ~~normally~~ elected according to normal procedure, the voters being divided into constituencies. Africans may ~~also~~ stand for election.
- b) The European with special responsibility for African interests will be elected by all those on the common roll, the Territory being treated as a single constituency.
- c) The 2 Africans will be elected by all those on the common roll, the Territory being divided into 2 constituencies — Matabeleland and Mashonaland. Europeans will thus have a majority say in the election.

Candidates for these African seats will have to support their nominations by ~~50~~ the names of 50 persons ~~whose names are~~ on the common roll, at least 25 of whom must be Africans.

Each voter will thus vote 3 times on polling day — Dec 15th.

Northern Rhodesia & Nyasaland.

- a) Registered voters will elect the representatives elected according to normal procedure (8 from Northern Rhodesia & 4 from Nyasaland).
Only British subjects can at present qualify for the common roll, thus the overwhelming majority of Africans are excluded.
- b) The 2 Europeans (one from each territory) to be charged with special responsibility for African interests will be nominated by the Governors.
- c) The 4 Elected Africans (two from each territory) will be elected by secret ballot by the African Representative Council in N. Rhodesia and the Nyasaland Protectorate Council in Nyasaland. These councils each consist of about 30 members representative of chiefs, sub-chiefs and urban Africans.

Candidates for election must possess a certificate from the Director of Education stating that they can read, write and understand the English language.

INDIA

(Common Roll)

India is now a Federal Republic within the Commonwealth. Her new constitution came into effect in 1950, and first elections under this constitution were held towards the end of the following year.

Some observers speak of the Constitution as quasi-federal since all the 77 states do not enjoy complete equality. They are divided into Part A States (provinces which until 1947 were directly ruled by Britain through Governors but after that enjoyed a great deal of autonomy), Part B States (which were ruled by Indian princes under the suzerainty of the British Crown), and Part C States (3 of these were Chief Commissioner's provinces which had little of autonomy, and 7 were Indian Princely States taken over by the Indian Government after its accession).

There is only one citizenship for the whole of India (excepting the special position of Jammu and Kashmir), and every citizen of India becomes automatically a citizen of the State in which he resides. The Constitution guarantees to every citizen (and in some cases even to non-citizens living in the country) a number of fundamental rights - e.g. freedom of speech, association, movement, residence, freedom to practice any profession and to hold and dispose of property. Educational and cultural rights are guaranteed to minorities. The Constitution enumerates certain directive principles of policy, such as making provision for free and compulsory education.

Elections, federal as well as State, are arranged by an election commission appointed by the President of the Union. In regard to voting rights, Article 325 of the Constitution reads. "There shall be one general electoral roll for every territorial constituency for election to either House of Parliament, or to the House or either House of the Legislature of a State, and no person shall be ineligible for inclusion in any electoral roll for any such constituency on grounds only of religion, race, caste, sex or any of them". There is, then, full suffrage for all over the age of 21 who are citizens of India, men and women. The usual exceptions are of course made in the cases of non-residence, unsoundness of mind, crime, corrupt or illegal practice.

The machinery of government is as follows :

- 1. The President is elected by an electoral college consisting of the elected members of the Central Legislature and of the Legislative Assemblies of the various states in accordance with the system of proportional representation by means of the single transferable vote. The term of his office is five years and he is eligible for re-election. He may, however, be removed from office by impeachment for violation of the Constitution.
- 2. The Vice-President is elected by the members of the Central Legislature in accordance with the principle of proportional representation. His term of office is also 5 years. He is ex-officio Chairman of the Upper House.
- 3. Council of Ministers.

The President is, like the King of England, only the constitutional head. He has to carry on the government with the aid and advice of a Council of Ministers which has a Prime Minister at its head and which is collectively responsible to the Lower House.

Parliament consists of the President and the two Houses.

- 4. The Council of States, (the Upper House) consists of not more than 250 members of whom twelve are nominated by the President from among persons who have special knowledge or practical experience of literature, science, art and social service. The other members are allocated among the states roughly on a population basis. The representatives of each state are elected by the elected members of its Legislative Assembly, and in States where there is as yet no such Assembly they are to be chosen in such manner as Parliament may prescribe. Parliament has provided for electoral colleges in such States.

The Council of States is a permanent body not subject to dissolution. One-third of its members retire at the expiration of every second year.

- 5. The House of the People (the Lower House) consists at present of 489 members directly elected by the adult voters in the states and 10 members nominated to represent special constituencies. The normal term of the

House/...

- 3 -

House is five years, but it may be dissolved sooner.

For a period of ten years, seats in the House of the People are reserved for the scheduled castes and scheduled tribes in proportion to their numbers. At present there are 66 seats reserved for scheduled castes and 27 for scheduled tribes. A special officer is appointed by the President to investigate and report on all matters relating to the effectiveness of the provisions included in the Constitution for improving the conditions of life for these more backward sections of the people.

The 10 nominated members of the House, mentioned above, represent areas such as Kashmir, the tribal areas of Assam, ~~Andamans and Nicobar~~ ^{and the Andaman} ~~and Nicobar Islands~~, where it has not yet been feasible to hold elections.

Any bill except a Money Bill may originate in either House of Parliament and has to be passed by both the Houses and receive the assent of the President before it becomes law. Money Bills can become law even without the consent of the Council of States. Differences on other bills may be settled if necessary through a joint sitting of the two Houses.

6. Government in the States.

a) Executive Head.

- (i) Part A States - A Governor appointed by the President for a term normally of five years.
- (ii) Part B States - A Rajpramukh recognised as such by the President.
- (iii) Part C States - Some are under Lieutenant Governors and others under Chief Commissioners.

b) Legislatures.

Governors or Rajpramukhs are only nominal heads of the State. The real executive power in all but the less-highly developed states rests with the Council of Ministers which has a Chief Minister at its head and which is collectively responsible to the Legislative Assembly.

- (i) Six of the states in Part A and one in Part B (Bihar, Bombay, Madras, Punjab, Uttar Pradesh and West Bengal are the Part A ones) have two Houses of Legislature, the Legislative Assembly (Lower)

and Legislative Council (Upper)

(ii) Remaining Part A and Part B States and some of the States of Part C have a Legislative Assembly only.

(iii) Remaining Part C States are at present governed from the Centre.

The Legislative Assembly of a state consists of members elected directly by the adult ^{population.} ~~members.~~ There is not more than one member for every 75,000 of the population subject, however, to the condition that no Assembly shall have more than 500 or less than 60 members. The normal term of an Assembly is five years unless it is dissolved sooner.

Again, for a period of 10 years seats in proportion to their numbers are reserved for representatives of the scheduled castes and/or scheduled tribes. In the case of Assam, 18 out of 108 seats are reserved for the autonomous districts of that state.

The total numbers ^{of members} in the Legislative Council of a state is not to exceed one-fourth of the members of the Assembly subject to the proviso that in no case shall it be less than 40. One-third of the members are elected by an electorate consisting of members of local bodies, one-twelfth by graduates, another twelfth by teachers, a third by members of the Legislative Assembly of the state, and the remainder nominated by the Governor or Rajpramukh. The Council is a permanent body not subject to dissolution. One-third of its members retire at the end of every second year.

In case of differences between the two Houses, the decision of the Lower House is to prevail if it is taken a second time under certain conditions.

NB. Most of the above is quoted directly from an article entitled "Some Recent Developments in Asia" by H. Venkatarangaiya in India, Quarterly, No. 3 of 1953, pub. by Indian Council of World Affairs.

Information given tallies exactly with that kindly supplied by U.K. Information Office, obtained for the Institute from their office in India.

PAKISTAN.

The population of Pakistan is :

- 85 per cent Moslem
- 12.9 per cent Hindu
- 0.7 per cent Christian
- 1.4 per cent other

The Dominion of Pakistan was constituted in August, 1947.

It consists of :

- East Pakistan - 1 Province. Over 50 per cent of the population.
- West Pakistan - 4 Provinces. Under 50 per cent of the population.

Until recently the government consisted of :

- a) A Governor-General appointed by the British monarch.
- b) Council of Ministers (the Cabinet).
- c) The Pakistan Constituent Assembly.
- d) Governors, Councils of Ministers and Provincial Assemblies in the Provinces.

A Basic Principles Committee was appointed to draft a constitution. Its report was laid before the Constituent Assembly in December, 1952, and following such discussion the following arrangements have been decided upon :

- a) The country is to become "The Islamic Republic of Pakistan", within the Commonwealth.
- b) The President must be a Moslem. He will be elected by members of the two Houses sitting together, and is to be given very extensive powers.
- c) The Prime Minister and Ministers are appointed in the usual way. If the President comes from East Pakistan the Prime Minister must come from West Pakistan, and vice versa.
- d) The House of Units, or Upper House will have 50 members, ten from each of the five units or Provinces. This gives West Pakistan 40 of the seats. Members are elected by Provincial Assemblies.
- e) The House of People, or Lower House. Seats are allocated on a basis of population distribution, and distributed between East Pakistan (where over 50 per cent of the people live) and West Pakistan in such a way that their combined representation in both Houses is equal.

There are reserved seats, in proportion to their numbers in the population/...

population, for caste Hindus, Scheduled Castes and Christians, who vote on separate registers. Hindu members of the Constituent Assembly opposed this suggestion strenuously, on the ground that their rights would not be safeguarded as they would be a perpetual minority group in Parliament. The Assembly had voted that all legislation must be Islamic, and no security had been offered to the personal laws of minorities. They maintained that there should be a common roll for all voters so that those elected would represent all sections of the population.

Powers of two Houses.

The two Houses are to have equal powers. In the event of a dispute between the Houses a joint sitting will be held.

Any vote of no confidence requires at least 30 votes from members from each of the two territories.

(Information from Mr. J.L.Malhotra, Assistant Secretary in the High Commissioner's Office, Johannesburg; from the Statesman's Year Book for 1953; from notes by M. Venkatarangaiya in "India" quarterly, No. 3 of 1953; and obtained for the Institute by the U.K.Information Office from the British Information Service in Karachi).

PAKISTAN ASKS FOR ADVICE ON DRAFTING CONSTITUTION

Star 24/11/53

Approach to Britain and Canada

From Our Correspondent

London, Tuesday.

ADVICE ON THE FINAL DRAFTING of her Constitution is being sought from Britain and Canada by Pakistan, reports the correspondent of "The Times" in Karachi.

In making this request to Britain the Pakistan Government had in mind Sir Ivor Jennings, vice-chancellor of Ceylon University whose writings on Cabinet responsibility are greatly admired in Pakistan.

A similar request was made to the Canadian Government in case Sir Ivor Jennings or other eminent British constitutional jurists should not be available. American advice was regarded as unsuitable because of the powers delegated to the President.

The Canadian constitution with its emphasis on Parliamentary authority was considered a better model for Pakistan.

Pakistan law officers are anxious to avoid what they consider to be the potentially embarrassing completeness of the Indian constitution. Apart from a statement of basic principles, they want to leave as much as possible to future legislation. The compromise they are looking for, as one of them put it, is something between a written and unwritten constitution and the British North America Act is regarded as a good start.

MINORITY RIGHTS

This cautious official attitude contrasts favourably with the heated retorts made in the Pakistan Press to Nehru's observations.

It is sincerely believed in Pakistan, continues the correspondent, that the rights of minorities, including Hindus, are adequately safeguarded. All citizens are declared equal before the law, and equality of opportunity and freedom of speech and religion are guaranteed. It was perhaps unfortunate that these guarantees were not remembered by critics when the Assembly agreed that an Islamic republic should be proclaimed.

The subsequent charge that this was a medieval and undemocratic conception was answered yesterday by the Minister of Law and Minority Affairs, Mr. Brohi, who said the antiquary of the idea of creed or doctrine was no argument against its validity.

CEYLON.

(Common Roll with protection for Minorities)

In 1947, Ceylon was granted Dominion status within the Commonwealth. Full self-government is envisaged: at present Her Majesty's Government retains the right to legislative matters relating to defence and external affairs, and the Governor-General has powers to reserve legislation on six specified classes of subject.

The governmental machinery is as follows:

1. A Governor-General appointed by Her Majesty, as the nominal head of the executive.
2. A Cabinet of Ministers appointed by him but collectively responsible to Parliament.
3. A Senate consisting of 30 members of whom 15 are elected by the House of Representatives and 15 are nominated by the Governor-General on the advice of the Prime Minister. The Senators hold office for 6 years, one-third retiring every second year. The Senate has no power over Money Bills; even over other Bills it has only a suspensory veto.
4. A House of Representatives containing 95 elected and a maximum of 6 nominated members. It holds office for 5 years unless dissolved sooner.

The 95 members are elected by means of universal adult suffrage, Electoral districts are based on the population and area of the provinces: the reference to area is because of the need to give adequate representation to minorities like the Tamils without bringing in the system of separate communal electorates. There is also a proviso which lays down that if in any Province there is a substantial concentration of persons united by a community of interests, whether social, religious or otherwise, but differing in one or more of these respects from the inhabitants of the area, that Province may be delimited into constituencies so as to render possible the representation of that interest.

The Constitution contains a clause which is designed to prevent the enactment of any law which restricts the free exercise of religion, or which discriminates against any person for communal or religious reasons.

The population is as follows :

<u>Race</u>	<u>No. of People.</u>
Europeans	6,000
Burghers and Eurasians	48,000
Sinhalese	5,236,000
Ceylon Tamils	831,000
Indian Tamils	885,000
Ceylon Moors	423,000
Indian Moors	40,000
Malays	25,000
Veddias	3,000
Others	47,000

(Encyclopaedia of Extra-European Countries)

(Information from "Notes on Recent Constitutional Changes in the Colonies" issued by U.K. Information Office in 1947, from "Some Recent Developments in Asia" by M. Venkatarangaiya, "India" quarterly, No. 3 of 1953, and from the Encyclopaedia of Extra-Europe Countries).

THE UNION OF BURMA

(Common Roll)

Burma is a sovereign independent federal republic, made up of four states - Burma proper, the Shan state, the Kachin state and the Karenni state. Under certain conditions it is open to any of these states to secede from the Union. Legislative power is divided between the central government and the states.

There is only one citizenship throughout the Union. Citizens are guaranteed a number of fundamental rights. Though the State recognises the special position of Buddhism as the faith of the great majority of the people, all minorities are guaranteed cultural and educational rights. The right of private property is recognised subject to the condition that it should not be used to the detriment of the public. The State is declared to be the ultimate owner of land and special protection is guaranteed to peasants and workers. Several directive principles of State policy are included in the Constitution and they have a pronounced bias towards the establishment of a socialist State.

The machinery of government is as follows :

A President is the constitutional head of the executive. He is elected for a term of five years by secret ballot of the two Chambers of Parliament in joint session. He may be impeached and removed from office by the vote of a two-thirds majority of each Chamber. No person is allowed to be President for more than two terms.

The Government

The Prime Minister is appointed by the President on nomination by the Chamber of Deputies. The other members of the Union Government are appointed by the President on nomination by the Prime Minister. The Government is collectively responsible to the Chamber of Deputies.

The Chamber of Nationalities (Upper House)

This consists of 25 representatives elected from the Shan state, 12 from the Kachin state, 8 from the Special Division of the Chins, 3 from the Karenni state, 24 representatives of Karens and 53 from the remaining territories of the Union.

The Chamber of Deputies is composed of members representing constituencies determined by law. Its number, fixed by law from time to time on the basis

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