

KENYA

1934

No. 23034 PART II

SUBJECT

C0533/441

LAND COMMISSION

(SIR W. CARTER)

Previous

PART I

Subsequent

38005/35-

56. *Tahiti* Tel. 240 _____ 11 October 54
(Draft on 24081/14 - copy attached.)
6A

56. *Governor* Tel. 225 _____ 15 October 54
Considers that there is no pressing urgency for implementing
Lead Comm. Report a delay of 6 months will not cause serious
inconveniences, but has therefore not to open suspense account.
Statement will barely cover cost of giving effect to Decree 20461 but
will be impossible to defray ^{cost of} expenses in Decree 20464/2047 from
this source.

As regards Wundanyi Limited, Mr. Freeston and I saw the Secretary of State, who instructed us to let matters proceed on their present basis and to ignore this telegram so far as Wundanyi is concerned. Action has been taken accordingly on the Wundanyi file.

In view of the state of mind disclosed by the Governor's telegram, however, the Secretary of State thought it as well to reassure the Governor lest he should be uneasy as to the eventual provision of the £50,000. The Secretary of State expressed the view that S.M.F. was fully committed to the payment of the £50,000, their intention having, indeed, been announced in cold print in the White Paper about the Carter Report and he said that he could not see how the present Parliament could possibly avoid implementing that undertaking. At the same time he was quite definite that too many commitments should not be undertaken in advance, though it would be quite proper to open a suspense account for reasonable payments, such as the one in this case to Wundanyi, before we had actually got the money. He, therefore, said that it would be well to

send a private and personal message to the Governor and I submit the draft of one. It seems hardly necessary to telegraph but, on the whole, it would probably be best to do so, as Kenya is evidently very perturbed.

J. E. W. Flood

17.10.34.

Perhaps a note to Mr Wade as per draft would help.

The two messages should clearly state the position, but some local difficulty is inevitable, because they will be asked where the money is coming from. I do not think we can go further.

18.10.34.

At one
J.E.W.
19/10

5) To Gov Kenya Tel Pte. Secs

19.10.34

By Bag 58 To A. de V. Wade 22/10/34

59 S. H. Fagan

25th Oct. 34.

3
Draws attention to a discrepancy between the records of the Land Commission & para. 10 of the White Paper (Cmd 4580) regarding declaring of boundaries of reserves, Class Blands or the Highlands by D. in 6.

(I should like to reveal that I did not investigate ourselves Mr. Fagan to write this letter. He called about a week ago, greatly disturbed at the apparent discrepancy between the White Paper & the Report, and talked on the subject at some length. I finally said that if his views were to be properly considered, it would be convenient to have them in writing).

Mr. Fagan has re-assembled the jig-saw of the Commission's recommendations with some skill, and the resulting picture must be accepted as an accurate portrayal of their views. But he exaggerates the importance of the discrepancy between the Commission's picture & the miniature reproduction of it in para. 10 of the White Paper. The Government of Kenya, when

addressing itself to the drafting of the
Orders-in-Council & the new Native
Land Trust Ordinance, is most
likely either to overlook the text
of the Report or to depart from
it, in a matter such as this,
without drawing the S.P.'s attention
to the departure.

? As in draft

B. H. H. H.
30/10.

See
revised draft

60. Governor Byrnes 159 Con (H. M. M.) — 25 Oct. 1911
Submits proposed to the composition of the new Central
Land Trust Board & encls. copy of memo. with Capt Wilson
& Mr. Hemsted on the matter.

Mr. Hemsted's concurrence is rather qualifying,
but it may be inferred from the dispatch
that he is not likely to give public
expression to any criticism; this (as will
be seen from S.P.'s telegram - No 35) is
the important point.

? Telegraph approval.

[Signature]
13/11/11.

As regards the suggestion made by
Captain Wilson for the appointment of a Provincial
Commissioner to the Central Land Trust Board is of
considerable weight. As it points out, the Board
may have to take up a position against some policy
of Govt. and a Provincial Commissioner would be in a
somewhat invidious position. It is different from
the Chief Native Commissioner, who, though he is a
Govt. officer, is yet a sort of free lance in matters
affecting native policy and is the Governor's
Adviser on Native Affairs. He can properly be on
the Board, and certainly the Commissioner for Local
Government etc. should be on it. As it is, the Board
will have a majority of unofficials and I think that
the proposed one is as good as can be expected. I
don't much like the remark in paragraph 3 of the

Functions and Duties of the Central Board,
"To make representations to the Secretary of
State or the Governor." — This gets the wrong
end of the stick altogether. The person to
whom the Local Lands Trust Board should make
representations is the Governor of Kenya, and
their only connection with the Secretary of
State should be the usual right to address him
through the Governor if they feel they are not
getting satisfaction. To put the Secretary of
State first is to spoil the whole outlook. I
would word it "To make representations to the
Governor (or, if necessary, to the Secretary of
State through the Governor)".

As regards No. 59, I agree entirely
with Mr. Freeston. The White Paper was of
necessity a very brief condensation of a very
large report and I think that all that is
necessary is to write to Kenya as per draft.

J. A. Wood

10.11.34.

N^o 59.

Mr. Freeston has agreed being
"stalling" the bracketed words at the
beginning of Mr. Jagan's letter.

Reasons:-

(a). This inclusion might harm Mr.

Jagan: This inclusion cannot
harm Mr. Freeston.

(b). Mr. Jagan might see the
edited form in Kenya.

Shan knows the draft.

N^o 60.

Sir J. Freeston.

This is in effect the only

to do: 35 in Part I.

5

The Governor has accepted the
opinion of the Provincial Commissioners,
and that, no doubt, is conclusive. But
I regret that it should be assumed
that because the P.C.'s are the
mouthpiece of Govt. decisions, to
the native he has no function as
a protector of native interests. I
wished that Mr. Hurdell, who had
had time to receive the copy of
Capt. Wilson's letter, could see the
P.C. without comment.

? Telegraph approval of the
proposed constitution of the Board,
and of the Functions &
Duties, subject to Mr. Hood's
comment, with which I agree.

L. C. 72 11. 34

13/11/34

N^o 59 was brought E. S. J. S. notice
in connexion with a recent P.C.
Revised draft now submitted following
the lines verbally indicated by E. J. S.

15/11

Sir C. Bottomley
S. of S. approved the revised draft
despatch on 5/9 (now detached for copying
so as to catch today's Air Mail)

He also discussed the composition
of the Land Trust Board (No. 60). The
Board has drafted the amendment tel
in pursuance of what S. of S. said.

W.C.S.

(Comment on the Memorandum
enclosed in 60 may be deferred? It
is evidently not for publication, and
to criticize one small point might
be held to entail S. of S.'s approval
of the rest, which would, I think, be
premature).

A. A. Martin
20/11.

W.C.S. 20.11.

J.M.
10/11

Copies of [unclear]
referred

1. Tel. to Gov. No. 281 20/11/34 Conf.
4/12

2. To Kenya. Conf. (2) - 20 Nov. 1934
(w/Col. 4 (59)) 19/3/35

3. To Gov. Kenya Tel. Conf. 29/11 - cons - 14 Dec 34

R297

Sir C. Bottomley.
East African Department.

received today 6/11
by Air Mail
(Postage 10/-!)

Please see this letter to Sir John
Maffey from Lord Francis Scott, forwarding
a copy of Major Cavendish Bentinck's speeches
regarding the Land Commission Report.

Sir J. Maffey has asked to be advised
as to whether he ^{should} reply to the letter,
and as to whether he ought to read any parts of
the speeches.

J. B. Williams

15.11.34.

Sir J. Maffey.

Mr. Hunter & I have read the
speeches. Nothing can be said of them
I'll be hear from the Governor, but I
should advise a respectful
without comment.

I do not think that you need
give much time. The speeches before
they come home officially.

Opening speech - p. 29. "The States"
Highland showed to be fully
secured as the Native Revenue.
fully - p. 18 - the statement beginning
"land" - The Bill is due to be
introduced at the session beginning on
Thursday, and we expect a vote for

It has now been decided
that the Bill is not to be
introduced at the session

A

B

The India Office opposing
the Bill today a Monday - we
shall have a busy time. There
will, I am sure, be better reasons
for resisting Indian progress than
the fact that, if we resist, we
shall have the European settlers
championing native interests
against the Government.

Their Land in Benbulbin and other
some capital out of question, -
overstocking, soil erosion etc. - which
were troubling the owners of the
Govt before he became a
reformed character

L.C.B. 17.11.34.

After reading the above minutes
Sir John Maffey wrote a
personal letter - I had Francis
Scott in reply to his letter
of 7th November, so no
further action is now required.

J. B. Williams
17.12.34

65 Governor Byrne 279 Conf Tel. _____
States that only further request to Commission for
interim members was in connection with Wundanyi
Estate.

See a PQ file
P. 15/12/34

66 Tel. No 301 to Govt Kenya (64 conf) 14 Dec/34

11/12

64 Governor Byrne Tel. 294 Conf _____ 27 Dec 34.
Agrees to non inclusion of Commission of 2.2.28, on the
N. & T. Board, & to appointment of Lord F. Scott. Suggests that the
other independent member should be Dr. C. J. Wilson

The proposals for the composition of the
new Central Lands Trust Board are
now:-

1. Chief Native Commissioner as Chairman
2. The two members of Legislative
Council nominated to represent
Native interests
3. Two independent members
(a) Lord Francis Scott.
(b) Dr. C. J. Wilson.

It will be seen from No 61 that
the Spt. may have a suggestion to
make as regards an independent
member.

68

I annex a short note on
Dr. Wilson
H. G. Smith
17.12.34.

Dr Wilson would seem to be a very sound choice.
He has lots of experience of Kenya and a medical man
should be able to take a reasonably detached view of
things.

The S. of S. has stated that Cabinet approval will
be necessary and he may have a further suggestion to
make.

J.S.W. Hand
2.1.35.

I send to you a good deal of Dr
Wilson - an excellent personality, with
plenty of drive.

Wes.
4.1.35

John
4.1.35

I still like to discuss this with them. No
know of Wilson.
I shall now try to take the constitution to the
Cabinet. I still like a fairly short 17 mos.
period, supplying the views of Governor
& members of Council, a final result.

PJL
5/1

Dr. Christopher James Wilson is aged 56.
He was educated at St. Paul's and Christ's
College, Cambridge, where he held a scholarship.
He qualified in medicine in 1906 and, after
holding various House Surgeons appointments,
has been a year and a quarter with the Royal Mail
Steam Packet Company as Ship's Surgeon. He
then put in a year as Medical Officer on the
Trans-Andes Railway in Argentina and subsequently
travelled in South America.

This file was lost as a result of Sir J. Burns' talks
with the S. of S. it was decided to go slow and not
proceed with the personnel for the time. The new Board will
come into being with the new Ordinance.

So this can wait till then.

J.S.W. Hand
31.1.35. done

Handwritten notes and initials, possibly "H.C.B." and "W.S.", with a date "4/1/35".

689

Dr. C.J. Wilson.

Born 1879.

Educated. St. Paul's School,
Christ's College, Cambridge.
M.R.C.S., L.R.C.P. London 1906.
M.B. B.Ch. Cambridge 1906.
M.D. Cambridge 1926.

Medical Officer	British East Africa ^{2/1906-1911} (now Kenya).	1911 - 1920.
Senior Medical Officer.	Kenya.	1920 - 1923.
D.D.M.S.	Kenya.	1923- 1928.
Principal Medical Officer.	Federated Malay States.	1928 - 1931.
Director, Medical and Health Services.	Straits.	1931.

Retired March 1934 and settled in Kenya.

RECEIVED
COPY FOR REGISTRATION
27 DEC 1934
C. C. Y

67¹⁰

Telegram from the Governor of Kenya to the Secretary of State for the Colonies.

Dated 27th December, 1934. Received 12-24 pm 27th December.

No. 294. Confidential.

Your telegram No. 281 Confidential.

Nobi

Constitution of Native Land Trust Board. In view of your representations I agree ^{to} ~~that~~ non-inclusion of Commissioner of Local Government, Lands and Settlements on the Board and to specific appointment of Lord Francis Scott as one of the independent members. I suggest that the other independent member should be Doctor C.J. Wilson vide Colonial Secretary's Note Est19/1194/11/202 of the 29th June who as you are aware has wide experience of Kenya natives. He is popular with all sections of the community, and is now settled at Naivasha.

No 88

3478

E. A. S.

C. O.

20026/20

66th

Mr. ~~Swinton~~ 17/12 aton

Henry

Mr.

Mr.

Mr. Parkinson.

Sir G. Tomlinson

Sir C. Bottomley.

Sir J. Shuckburgh

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

Coded Dec 4/12/14
G

10/12/14

DRAFT. Tel.

Gov. Nauri

H.C.

64)

Conf. N^o 307 Your let. 279

Conf. In my reply in
Parliament I propose to

include ~~some~~ summary

of para. 3 your desp.

3rd Dec. 1932 147 Conf.

and text of definition

in my let. 20 Dec. 1932

279 Conf!

1 on 18/11/31

3

FURTHER ACTION.

195
6/4

COPY FOR REGISTRATION

15 DEC 1934

C. S. REGY

Telegram from the Governor of Kenya to the Secretary of State for the Colonies.

Dated 15th December, 1934. Received 11.30.a.m. 15th December.

Important.

No. 279. Confidential.

No 63 Your telegram No. 297 Confidential., Only further request to Commission for interim recommendation(s) was in connection with Wundanyi Estate vide paragraph 11 page 2,798 of evidence volume 3 and paragraph 1,254 of the Report.



TELEGRAMS COUNTRY

Nov 07 1918
50
9118
6HAny reply?
Am of it
with reading JanKITHAIGA COUNTRY CLUB
NAIROBI.
KENYA COLONY.

Dear Haffey

15/11

I am sending you these copies of the opening speech, & reply to the debate on the Carter Land Commission Report by Cavendish Denton who was acting leader of the elected members during my absence. I thought it might interest you as giving a pretty clear idea of our unofficial point of



TELEGRAMS COUNTRY

Nov 07 5 10 PM '64

Am. rep?

Am. of

work reading

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NAIROBI.
KENYA COLONY

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view on the Report.

I note there is a lot of
excitement about the voyage
question.

Yours

James Scott

14

Kenya Land Commission Report.

Speech

- By -

Major the Hon. F. W. Cavendish Bentinck
Acting Leader of the Elected Members on the
occasion of his moving the following Resolution

" Be it resolved that this Council
records its appreciation of the valuable
work done by the Kenya Land Commission.

Whilst noting that in general terms
their Report has been substantially
approved by the Imperial Government,
this Council expresses the hope that
whereas early action should be taken
to implement in Legislation the
general principles of the Report, full
consideration will be given to locally
expressed views in regard to detailed
recommendations."

In speaking to this Motion, I beg to crave Your Excellency's indulgence with regard to Rule No. 47 of the Standing Rules and Orders of this Council. In view of the importance we attach to this debate and to the very large number of references I shall have to make to specific recommendations contained in the Carter Report, I propose - subject to Your Excellency's permission - to refer, perhaps to an undue extent, to written notes.

I do not think that the sentiment expressed in the first portion of this Motion requires any amplification as I am confident that it is not only the desire of the European Elected Members, on whose behalf I am speaking, but that it must be the unanimous wish of all Honourable Members of this Council to place on permanent record their sincere appreciation of the tremendously thorough and painstaking work which was performed by the Kenya Land Commission. The Commissioners must, at the outset, have been overawed by the vastness of the task which lay before them, but with painstaking perseverance they made meticulous enquiries into the nature and extent of every possible claim and have carefully weighed the needs of the Native population, present and prospective, with respect to land and as a result they have compiled possibly one of the most monumental, but certainly one of the ablest reports, that has ever been laid on the table of this House.

Before dealing with specific recommendations contained in the Report, I must allude to the reference in the Motion to which I am speaking to the circumstance that the Report was substantially approved - and one may say, in vague terms, adopted - on our behalf by the Imperial Government in a White Paper which was issued on the same day as that on which the Report was published.

We, on this side of the House, feel that we cannot allow such a procedure to pass unchallenged. The

recommendations contained in this Report vitally affect in some way or other every person inhabiting this Colony and we must enter a most emphatic protest against the procedure adopted by the Imperial Government in taking definite decisions on the recommendations of a Commission before either the Government of Kenya or the Representatives of unofficial bodies in Kenya had even had an opportunity of reading the Report, still less of expressing their views. Such action, to our mind, tends to reduce the Kenya Constitution to the somewhat farcical category of being regarded as nothing more than a moribund appendage of the Imperial Government.

I am aware that I may be told that this "modus operandi" is not unique and was adopted recently with regard to a Report on the condition of affairs in Newfoundland, but the circumstances of that case were entirely different. In Newfoundland the state of affairs at the time was such that Imperial Government were asked to take over complete and immediate control in an endeavour, by the prompt introduction of very unusual and far-reaching measures, recommended by a Commission of Enquiry, to prevent complete economic disaster. In other words, for the time being the Newfoundland Government and the Newfoundland Constitution had collapsed. Ours have not.

I will now endeavour to put forward the views of the European Elected Members on the Report generally, leaving individual Members, who have special knowledge of certain subjects, to enlarge on the Commissioners' recommendations on such subjects in due course.

The Report is divided into three parts, and probably the most convenient and connected way of covering the ground I have to cover will be to deal with each part separately and successively.

There is, however, perhaps one preliminary point which calls for some observation as it affects all three parts of the Report; that is, the method used by the

Commissioners in regard to classification of land. I allude to this specifically, as the same method will probably be used in the reconstructed Native Lands Trust Ordinance and I should like to state that we consider that the way in which land is classified in the Report as Class "A", "B"1 and "B"2, "C", "D" and "European Highlands" is convenient and clear.

The whole of Part I of the Report deals with the problems of the Kikuyu, the Meru and the Embu and some allusion is made to certain Nairobi problems.

I do not propose to go into any detail with regard to the recommendations made as to additions to the Kikuyu Reserve. We agree with the Commissioners that, in their efforts to provide a settlement of all claims, which would be just, both to the tribe and the individual, they have been generous in their recommendations and we welcome this as bringing on liberal lines finality to pretensions - often not very moderately put forward - which have been a cause of vexation amongst the Kikuyu for many years past.

We trust, however, that their recommendations contained in Chapter 14 regarding the means by which a better use could be made of the land, will not escape the notice of Government and its Administrative Officers.

The so-called "Githaka" system of land tenure appears to us to be rather more in the nature of lack of system, it is neither traditional nor long established and is already showing signs of failing. Furthermore, it tends to encourage the uneconomic sub-division of holdings, a habit which represents such a very real problem amongst the Kikuyu.

In this connection we would invite Government's attention to the final portion of Paragraph 535 of the Report, in which the Commissioners state that they are satisfied that there are several features of the "Githaka" system which require to be regulated WITHOUT DELAY and where they stress their belief that in the Kikuyu Province there is

real danger that the present policy of "laissez faire" may be carried too far and will result in further uneconomic fragmentation and consequent depression of the standard of life and, we would add, in a steady reduction in productivity.

I shall refer again on several occasions in the course of this Debate to the very real dangers and complications which in our opinion and also in the opinion of the Commissioners result from a Governmental policy of "benevolent laissez faire".

As regards the Commission's recommendations in respect of the Meru, we note that a reversion to the boundaries, as provisionally gazetted in 1925 and approved by the Governor in Council in 1928, is recommended. It is, however, suggested in Paragraph 570 that, as the Meru set considerable store on the acquisition of the piece of land now comprised in farm L.O.4634, the Commissioners can see no reason why they should not be permitted to make an offer for this farm, provided the lessee is prepared to entertain an offer and provided the accredited Representatives of the European Highlands agree. This, I think, is the first occasion in the Report in which reference is made to the accredited Representatives of the European Highlands. Further reference is, of course, made in Paragraph 1496, in which the Commission deals with the general question of the possible leasing of land in the European Highlands for Native use. I shall therefore allude to this matter again at a later stage and will confine my remarks at the moment to expressing the hope that Government will not endeavour to implement the particular recommendations made in Paragraph 570 with regard to the Meru until the question has been settled as to how the accredited Representatives of the Highlands are to be defined and equipped with the necessary statutory powers.

We also note that the Commission recommends that the land occupied by the King's African Rifles

remain there. This we consider equitable.

The recommendations regarding the Embu I think require no comment.

Before concluding Part I of the Report, the Commissioners deal at considerable length with certain land and other problems connected with the Nairobi Township and Commonage. Specific recommendations are made as regards the village of Pangani, the Pumwani Native location and the Sudanese settlement at Kibira. With regard to Pangani, we sincerely trust that some definite attempt will immediately be made to close this village, which is an eyesore and inimical to the health of the town. It would appear that any attempt at finding a solution to this pressing question was purposely postponed until the Commission had reported. The Commission has now reported and has made recommendations in considerable detail, and in order to stress the urgency of definite action being taken I need only quote part of one of their conclusions, which is "that the location at Pangani is deleterious both to the health and morals of the Natives. It is badly overcrowded and has a notable preponderance of undesirables. The sanitary conditions are not such as ought to be permitted in Nairobi and are a menace to the town." With this opinion before them, we trust that Government will no longer procrastinate but will, with the co-operation of the Municipal Authorities - which I am sure will be only too readily afforded - ensure that immediate action is taken, even though the measures adopted to close the village may have to be enforced by sections.

We would also invite Government's earnest consideration of the recommendations of the Land Commission with regard to the ex-Sudanese settlement at Kibira. There is no doubt that a very large proportion of the Natives residing in Kibira entered the location without authority and are, in many cases, leading disorderly lives. The situation at Kibira

of "benevolent Laissez faire", in connection with which I would draw Government's attention to the note which appears, on page 173, reminding us that "the Natives of this country, as being a people under tutelage, are entitled to expect that Government will direct and control. Where Government relaxes that control it must share the responsibility if irregularities occur and Natives cannot be greatly blamed if they take Government's inaction as representing acquiescence." A very large proportion of the complications and difficulties which Commissioners at this late stage have had to endeavour to solve have undoubtedly been caused by Government's inaction in the past.

Lastly, with regard to Nairobi, we would urge the necessity of taking steps to deal with the problem created by swarms of Somali cattle grazing on the Nairobi commonage. This land should either be developed as a National Game Park or should revert to the status of unalienated Crown Land in the Highlands, in respect of which Europeans have a privileged position. I wish most earnestly to express our agreement with the opinion recorded by the Commissioners in Paragraph 634, to the effect that "Natives who elect to live in the towns cannot expect to keep cattle." The huge numbers of half-starved cattle which are at present trespassing all over Nairobi constitute a perfect pest.

Turning now to Part II of the Report. This section of the Report commences by dealing with problems connected with the Masai. The recommendations made by the Commissioners in this regard will be commented on by Members who have specific knowledge of the Masai country. I will merely record that we note that the Commissioners have decided that the Masai have no claim of right to what is known as the "Mile Zone" or to the "Chiyulu Triangle" and that, notwithstanding a temporary facility to the Masai permitting them to take out annual leases at a reasonable rent, the status of the Mile Zone should remain unaltered.

We notice with approval that certain financial adjustments are recommended as between Government and the local Masai Native Council with respect to some of the land which forms part of those alienated farms South of the Mbagathi River.

The Commissioners further recommend that an area totalling 14,068 acres of good grazing land South of the East Mau Forest Reserve be granted to the Masai in exchange for an area of 13,245 acres of forest, which latter will in future be regarded as Forest Reserve. Certain tribal exchanges of land as between the Kikuyu and the Masai are also suggested. All the foregoing appear to us equitable and desirable adjustments.

Next to the Masai the Commissioners discuss the claims of the Wakamba. They point out that the overstocking of the Machakos Kamba Native Reserve is particularly noticeable and that it cannot be questioned that a very large proportion of the Kamba cattle are of an uneconomic type, consisting largely of useless bulls and barren cows, besides large quantities of poor sheep and goats. The same remarks would appear to apply to the Kitui Kamba. Further reference to the general question of overstocking will be made at a later stage of this Debate. The Commissioners, after considering the claims of the Wakamba, have recommended that certain additional grazing facilities be provided for the tribe by the addition of approximately 300 sq. miles on the Yatta Plateau. Although, as a result of giving careful thought to the reasons given by the Commissioners, we endorse this suggestion, we feel that we should point out that if this recommendation is accepted it will mean that the whole of the Yatta Plateau, which has hitherto been regarded as unalienated Crown Land and an area which might be developed by a large scale non-Native enterprise, will in future become Native Reserve, in that the Northern part of it is to be added to the Kikuyu Native Reserve as an extension under category "B-1, 300 sq. miles of it under this

recommendation will go to the Wakamba as class "B"1 land, and that portion between the Mwitwa Siano River and the Kitui Native Reserve is to become a Native area class "C".

We approve the various other additions or advantageous exchanges which are also recommended with regard to the Wakamba.

Before, however, leaving the subject of this tribe, we beg to draw attention to their well known inclination to encroach beyond their definite boundaries, especially in a South-Easterly direction. We trust that Government will now implement a definite policy with regard to the use of the new "A" and "B"1 additions to Wakamba territory. A very vigorous policy of bush clearing etc. would appear especially necessary in the case of the 512 sq. miles class "A" land which is to be given in lieu of the Kikumbulu location.

The Commissioners next deal with the Northern Frontier and Turkhana Provinces. They recommend - and we thoroughly endorse their remarks - that, excepting only in the case of the West Suk and North Pokomo, no Native Reserves should be declared in either of these Provinces; firstly because the areas under review are so vast in proportion to their populations that it would amount to an unjustifiable locking up of land if it were devoted in perpetuity to the exclusive use of the nomadic tribes or sections of tribes who at present make use of it; and secondly because they do not consider that the existing Natives have established any claim to exclusive possession either on historical or economic grounds; and thirdly because the Commissioners believe that it might be in the best interests of the Colony were considerable areas to be leased to non-Native individuals or to Companies who have the capital to improve or develop them. Nor do the Commissioners consider it necessary to insist that in every case such leases should only be granted if they were directly beneficial to the Natives. Priority of Native interests can, however, be safe-

guarded by a special Section under the Lands Trust Ordinance. Mention is incidentally made of the fact that any attempts to cultivate in such areas in the Northern Frontier Province as are suitable for agriculture are at present frustrated by the very large quantities of game which exist in that part of the country. I shall again allude to this question of game at a later stage.

In making their recommendations with regard to the Northern Frontier and Turkhana Provinces, the Commissioners also endeavour to deal with the question of Leroghi, in respect of which they reach the conclusion that similar recommendations should apply generally to the Leroghi Plateau, but they add that in the case of Leroghi leases of large areas to non-Natives should not be allowed except for purposes directly beneficial to Natives. They stress, however, that the ultimate destination of this land is a matter with which they do not find it necessary to deal. A special chapter is devoted to the question of the Samburu in relation to the Leroghi Plateau, the general gist of which chapter tends to put forward a plea to the effect that although the Samburu have only the slightest - if any - claim to Leroghi, again owing to Government's past policy of "benevolent laissez faire", the Samburu have been driven from their former grazing grounds by more virile, and in many cases alien, tribes, and the country that is now left them is incapable of supporting more cattle.

It is rather curious that in spite of the fact that the Commissioners put forward these arguments in the chapter devoted to Leroghi, they somewhat inconsistently suggest that Somalis, whom they regard in Section 812 as aliens or immigrants and in Section 813 as non-Natives of the Colony and foreigners, should have the same privileges as Natives in a newly demarcated and neighbouring "C" area; and furthermore visualise, in spite of the apparent shortage of grazing, that a large area of land between Mt. Marsabit, Leroghi and Isiolo

will be turned into a Game Reserve.

The question of Leroghi will be dealt with in the course of this Debate by other Members who have specific knowledge of the particular country and its history. At this stage I will only say that the recommendation made by the Commissioners that the Kittermaster Line should become the Southern boundary of the Northern Frontier Province is un-animously considered by European Elected Members to be unnecessary and unjustified by the evidence adduced - or shall we perhaps more correctly say not adduced - by the Commission. The unconditional acceptance of this recommendation would, furthermore, in our opinion constitute a gross breach of faith in regard to the European Settler community. The Commissioners themselves admit in Paragraphs 858 to 861 that when the Masai were originally removed from Leroghi, they were moved, and moreover were moved without trouble, because it was clearly understood by all concerned, including the Masai themselves, that this move was taking place only in order to make this area available for White Settlement. This was definitely admitted by the Secretary of State in 1926. There is furthermore no doubt that the local Government has on many occasions in the past attempted - although perhaps rather half-heartedly - to find alternative accommodation for the Samburu, which is at least a tacit admission of the European claim.

In the Report of the Commission a description is made of this area and an attempt is also made to estimate the number of Samburu stock on Leroghi, and I will only say this, that I personally took steps to inspect this area and to try and get an idea of the number of stock on it by the adoption of what I consider the only reasonable and obvious step, which is to procure an aeroplane and fly on definite compass courses backwards and forwards over Leroghi. As a result of what I have seen - and I have probably seen more than it is possible to see from the ground in the course of several weeks' safari - I can only add that with all due respect

I entirely disagree with both the description of the area and with the very high estimates of the numbers of stock made by the Commissioners, who admit themselves that their statement is only based on what they believe and not on what they have themselves seen.

Incidentally, with regard to the recommendation that the Kittermaster Line should become the Southern boundary of the Northern Province, it is rather interesting from our point of view to note that now that Government have at last realised that their benevolent policy of letting things slip has resulted in the Samburu getting quite obviously out of hand, they have, since the publication of the Carter Report, been obliged to deviate from the recommendations made therein and have had to place the Leroghi area for purposes of administration under the Rift Valley Provincial Commissioner.

In concluding my remarks regarding this question I must therefore most emphatically protest against any action being taken towards inducing a further infiltration of Samburu into the area between the Kittermaster and the Ceryndon Lines, and on behalf of the European Elected Representatives I must, in no unmeasured terms, press our claim that the Leroghi Plateau should be regarded as land which in the future will still be available for White Settlement.

In putting forward this claim we realise that some reasonable alternative must be made available for the Samburu. We maintain that such an alternative exists and it will be put forward at a later stage in this Debate. We would further stress that the Commissioners themselves appreciate that our claim is just, as they have been very careful to what is vulgarly termed "pass the buck" and to make no definite recommendation as regards the future of this area, and thus, in putting forward our case, we are in no way contravening the general terms of the Commissioners' recommendations.

The next recommendations on which we wish to comment are those concerning the West Suk. Here again we must draw the attention of Government (I am sorry to harp on the same subject so often) to a further concrete example of the disastrous effect of their past policy regarding the results of which the Commissioners, in Section 906, find it difficult to speak with moderation. I refer to the enormous numbers of uneconomic stock which the Suk have been allowed to accumulate. I trust that Government have noted and are prepared to adopt the measures which in this section of the Report the Commissioners urge must be taken immediately. We further appreciate that a proposal for the addition of six unalienated farms for the West Suk Reserve has been turned down. The Commission, however, consider that a possible alteration, by agreement between the Kenya and Uganda Governments, to the Suk-Karamejong boundary was worthy of further investigation. Perhaps during this Debate Government could inform us whether the temporary agreement mentioned in Paragraph 911 has led to any more permanent arrangement as between the two Governments.

The Commission next deals with the problems of the Rift Valley Province in respect of the East Suk, the Njempa and the Kamasia Native Reserves, i.e. that area which stretches from North of Lake Baringo Southwards to Lake Bolai and Eldama Ravine. There is no doubt that all these Reserves are grossly overstocked. All have been allowed to accumulate enormous numbers of bad quality stock, far in excess of their needs or the capacity of the land to carry. The result is complete ruination of the land, which, for all practical purposes, cannot now in many places support life. We would therefore stress the fact that in Section 944 the Commissioners very rightly take the opportunity of stating emphatically that in their view there is no obligation, either moral or otherwise, upon Government to attempt to provide at varying intervals unlimited grazing for stockowners of any race and that the

practical remedy for overstocking does not lie in perpetual attempted piecemeal extensions of land, which in turn are by mismanagement converted into a desert, but rather in the provision of outlets, the culling of uneconomic stock and the control and reconditioning of the pasture available. It is further pointed out that much of the damage done to these Reserves - as to all Reserves - is due to goats, to which further reference will be made later. Meanwhile, although we are aware that a certain amount of reclamation work is being done in the Kamasia Reserve, we trust that further measures to endeavour to regenerate these Reserves will be taken in hand forthwith before it is definitely too late.

We note, in respect of the Kamasia, that it is proposed that Government should open negotiations for leasing certain farms on the Esagari River and although we do not object to this, we consider that as a matter of principle we must remind Government of the recommendations contained in Paragraph 1496 regarding the rights of the accredited Representatives of the European Highlands. We wish also to point out that the addition to the Kamasia Native Reserves and to the Njemp Native Reserves made in Sections 941, 942 and 969 will entail a tongue of Native Reserve penetrating some way into an European farming area. We invite Government's attention to the fact that boundaries of this nature are not very desirable if they can be avoided.

The next recommendations of any importance made by the Commissioners concern the Elgeyo, Cherangani and Marakwet, the chief being to the effect that the Elgeyo should give up 4,933 acres of dense forest and should receive in exchange 3,850 acres of gasetted Forest Reserve which is, however, mostly grazing land; and 1,129 acres Crown Land - also good grazing land - making a total of 4,979 acres; and further that an addition should be made as class "B"1 land of certain up to now unalienated farms in the Cherangani farm area. These

measures will, incidentally, protect the source of the Eldoret water supply, which we regard as a matter of importance. We should like here to endorse strongly the opinion of the Commissioners that the creation of an infinity of small mutually exclusive Native Reserves is a mistake and should be avoided in all cases where the customs of contiguous tribes are not vastly divergent, and we trust that both the land at present held by, and that the extensions recommended with regard to such kindred peoples as the Elgeyo, Marakwet, East Suk, West Suk, Njemps and the Kamasia will be gazetted as one Reserve and not as five or six.

As regards the Nandi country, I am leaving it to another Honourable Member who has personal knowledge of the facts to comment on the recommendations regarding both the suggested payment of £5,000 and the suggested modification of the Cogle Line. There are, however, a few small points to which I would like to draw attention, the first being that there is, I believe, an area of 154 sq. miles of forest which is now contained in the Nandi Reserve. We consider that this forest should be gazetted as Native Forest Reserve as otherwise it might be destroyed, which would be a calamity, not only for the Native Forest Reserve itself, but also for the adjoining country. The second point I wish to make refers really to Part III of the Report, but it is perhaps more convenient to mention it at this stage and I therefore beg to draw the attention of Government to the recommendation made in Section 1973 to the effect that, although the area in which the Kipkarren and Kaimosi farm blocks are situated is Native Reserve and therefore in a territorial sense cannot be said to be European Highlands, the Commissioners nevertheless recommend that Europeans should have the same privileges, both in respect of initial grants and transfers of land in these two blocks, as they have in the Highlands proper.

I will now pass on to the recommendations in respect of the three Kavirato Reserves. Roughly, the

recommendations are that 40,000 acres of land in the area of Mt. Elgon should be added to the Kavirondo Native Reserve for the use of the El Gonyi; that 1,380 acres which now form part of the Kisumu township should also be added to the Reserve; and that 900 acres at present in use at Maseno as a social service centre should in future be regarded as forming part of the Reserve; and that, should farm No. L.O.653 come into the market, Natives should be allowed to bid for it either tribally or privately. We note with satisfaction how few were the claims or complaints put forward by the Kavirondo, but we cannot resist expressing some astonishment that, whilst the Commissioners found it necessary to recommend additions of land for the use of this tribe, Government nevertheless, since the publication of this Report, were able to find room in the Kavirondo Reserve for the recently expatriated Lumbwa Laibons together with their families and stock.

I will now pass on to the claims of the Lumbwa and will only say that we note that the Commissioners recommend that approximately 148 sq. miles of the Chipalungu Forest should now be added to the Lumbwa Native Reserve as Native land class "A", but that Government should reserve in this area such locations as may be considered advisable for the use of the few Dorohe who are to be moved into Chipalungu from the Mau area. We do expressly desire to draw Government's attention to the request made by the European farmers at Sotik that an area at Chemgal should be excised from the Reserve for township purposes, and to the Commissioners' recommendation that approximately 2 sq. miles should be provided, though not necessarily excised, for this purpose.

I do not propose to deal at any length with the recommendations regarding the Pokomo, Nyika, Digo, Tavita and the Sagalla Reserves. We trust, however, that any settlement regarding water rights in the neighbourhood of Tavita will not be allowed at this late stage to react unfairly

on the few big estates which are operating in the Coast Province. We also heartily reiterate our endorsement of the recommendation that all these Native Reserves, many of them very small, should be proclaimed collectively as one Reserve, to be known in future as the Coast Province Native Reserve.

On the subject of the Coast Belt and the Ten Mile Strip I am not qualified to say very much. There are, however, innumerable private claims in this area which must be adjudicated upon without delay. Any attempted perpetuation of tribal conditions on the Coast is neither workable nor desirable and the provisions of the present Land Titles Ordinance do not apply satisfactorily in the Coastal area. Some solution of the urgent question of ascertaining once and for all what lands are at the disposal of the Crown and what lands are private is therefore long overdue. We thoroughly agree with the Commissioners that this work of adjudication must be immediately proceeded with energetically and that it is probably desirable that the office of Recorder of Titles should be resumed. Incidentally I believe that a Coast Lands Titles Committee is supposed to be sitting with the object of clarifying this position. Perhaps in intervening in this Debate Government will inform this House whether this particular Committee has yet sat or made any interim or other recommendations, as some of us feel that this Committee as at present constituted is unlikely to prove altogether satisfactory.

I have now dealt with Part I and II of the Report, which deal with specific conditions in individual Native areas.

Part III of the Report, however, from the point of view of the European Elected Members, is probably the most important Section of the whole Report, as in it not only do the Commissioners make their recommendations with regard to the European Highlands, but they also endeavour at some length to make a general survey on a wider plane of

many of the great difficulties which we have to overcome if Kenya is to progress and if their recommendations, made with a view to some final solution of the many vexatious problems which have existed in the past, can be successfully implemented.

Dealing firstly with the most important subject of the general conditions obtaining in Native Reserves, we note that the Commissioners stress that there are two main issues which must be faced; the first being the maldistribution of the population, and with that are connected the problems which arise in respect of tenure of land; and the second being the hopelessly uneconomic manner in which the land is at present being utilised and the attempts which must be made forthwith to prevent further denudation and erosion.

As regards the first, the Commissioners have gone into the question of maldistribution in some detail and have pointed out that, in the interest of elasticity and in order that peaceful inter-penetration between tribes "should be facilitated and a more economic distribution of the population secured, they have recommended in the first place that the general classification of land into "A", or permanent Native Reserves; "B"1, as land to be added to a Native Reserve, probably required permanently; "B"2, as land to be added to a Native Reserve but possibly not required by that tribe for all time; class "C" as land to be set apart for alienation or lease to Natives, whether as groups, families or individuals, with other provisions; and "D" as land in which initial grants and transfers can be made absolutely irrespective of race; secondly they have also recommended a most radical departure from the present system of demarcating innumerable small rigidly self-contained tribal Reserves by suggesting that in future there should be only five main units of Native Reserve. We wish strongly to endorse in general terms the opinion put forward by the Commissioners to the effect that a notable degree of maldistribution does exist today and unless steps

are taken to counteract this tendency the problem will become far more acute in the near future.

Many detailed recommendations are made whereby some reasonable re-adjustment can be brought about and we have no doubt that these recommendations will also be endorsed and acted upon by the Administration. With reference to these recommendations, however, an important point arises with regard to re-adjustments which might become necessary in the future owing to probable variations in the birthrate and population of individual tribes, in connection with which problem the Commissioners discuss generally the question of inter-tribal leases, leases to a tribe of contiguous land in a "D" area, and leases to a tribe of land in the European Highlands. This latter eventuality raises from our point of view a very vital question and, much as we wish to ensure for all time to Natives a sufficiency of land for their legitimate requirements, subject to such land being reasonably economically used, we must nevertheless naturally insist absolutely that adequate security of tenure be accorded to the European community. To our mind the recommendations dealing with the possibilities of leases to a tribe of land which is in the European Highlands are vague and insufficient. It is, for instance, admitted that when an application is made for land situated in the European Highlands the European community will have to be consulted, but the only recommendation made with regard to this is a very vague and unsatisfactory one to the effect that practical means of doing this will have to be devised, whether through District Councils or otherwise. In the very next sentence it is, however, suggested that in all cases agreement should be sought between Government, as representing the Colony as a whole, and the accredited Representatives of the European community; and yet in Section 1496 the Commissioners visualise the possibility of leases to Natives of land in the White Highlands being forced through against the wishes of the

owner of the land, possibly by the application of the Land Acquisition Act, or even against the wishes of the local District Council, but never in the face of any objection by the accredited Representatives of the whole of the European Highlands. I have referred to this subject earlier on in the course of my remarks and would repeat that I can see no definite recommendations in the Kenya Land Commission Report as to who are to be regarded as the accredited representatives of the Highlands (I can only presume that the Commissioners visualised the European Elected Members) or how such Representatives are going to be definitely defined and equipped with any statutory powers that may be necessary. This is a vital question and one to which some solution must be sought without delay, as, on a satisfactory solution depends the adequacy or otherwise of the security in the European Highlands which the recommendations of the Kenya Land Commission are supposed to accord to the European community and we do not believe that such adequate security can be afforded unless some satisfactory form of European Lands Trust Board be established by Statute and given precisely the same powers within the boundaries of the European Highlands as are accorded to the Native Lands Trust Board in regard to Native lands. I shall refer to this matter again when dealing with the European Highlands,

Having dealt with the Commission's recommendations with regard to "maldistribution" I now come to the second main issue as regards Native Reserves - the question of the economic use of land, or perhaps more precisely the question of how to put a stop to the wanton destruction of land which is at present taking place. The matter is one which will also be dealt with by other Honourable Members who have had a lifetime's experience in agriculture and stockraising. The Commissioners in their Report devote much space to dealing with this vitally important problem and they rightly point out

that when considering the future needs of Natives as regards land, the question of the use and conservation of such land is at least as important as the extent of the areas allotted to them, the amount of land required being mainly dependent upon the way in which it is used. They further stress, in no measured terms, that a most definite obligation falls upon Government to face the existing situation and to devise adequate remedies. It is definitely not a problem which anywhere in the world could be solved by an increase in land. If the present system of lack of control is permitted to continue in this territory, then the whole of Africa would be insufficient to satisfy the needs of the Natives of Kenya in the future. The primary cause of the tremendous amount of denudation and erosion which are taking place today is a complete lack of any rational method in agricultural or pastoral practice of the Natives. As regards agriculture, the Commissioners suggest that they had divergent evidence. On the whole, however, the vast majority of the evidence was to the effect that soil erosion and the considerable destruction of cultivable areas which have taken place during the last twenty years or less are entirely caused by the unfortunate methods still employed by the Natives. The late Director of Agriculture, no doubt in defence of his Department, attempted to rebut this contention which was, however, on the other hand, definitely supported by the Acting Director of Agriculture and has also, I see, been supported in unequivocal terms by another experienced and very able member of our Agricultural Department in a recent article which appeared in a Rhodesian periodical, from which I propose to quote in the course of these remarks.

We can, I think, at all events accept the fact that so long as Natives were able to roam about at will in extending their cultivation, erosion did not worry them, but, since a cessation of tribal wars and increased population has made it necessary to cultivate land for long periods - as has

been customary in all other parts of the world for centuries - the structure of the soil in Kenya has altered and tremendous damage has already been done. When this land is eventually allowed to go fallow the development of vegetable cover is slow - if, indeed, the goat ever allows this development to take place - and severe damage is incurred. Although we realise that steps have been taken by Government latterly to try and effect some improvement in this regard, we are nevertheless definitely of the opinion that the time has arrived when it has become necessary to take very much stronger action in order to instil soil conservation methods into the Native agriculturist, if necessary by resorting to compulsion. In this regard, although in no way comparable, we must admit that even the Settler farmer also is not entirely above criticism. The legend that Kenya is possessed of tropical soil of volcanic origin and inexhaustible fertility has done harm because, believing this to be the case, measures to prevent loss of top soil have been considered as unnecessary, and as a result many have found that they have lost or are now rapidly losing a large proportion of their valuable surface soil.

Leaving for a moment the subject of agricultural tribes and turning to that of the pastoral Native, we wish by every means in our power to endorse every criticism made by the Commissioners as to the lamentable state of affairs which now exists in the pastoral areas in the Reserves. They state that in many parts where there used to be grass there is to-day nothing but bare earth, and in Section 1988 they go as far as to express the view that at the present moment a preposterous state of affairs exists in the Colony. The trouble is, of course, largely due to overstocking. We realise that the problem is a difficult one for the Administration, in that the Native of Kenya looks upon his stock as currency and not as a productive asset. Here

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numbers count far more than quality, and the stock question is interwoven in every direction with Native habits and customs. Furthermore, when Government does show the slightest inclination towards facing the position by trying to ascertain what amount of stock is being kept by any particular tribe, we feel that Chief Koinange's statement is correct to the effect that counts made of sheep, goats and stock by the Agricultural Department are purely imaginary, because, for fear that they are going to be told that they have too many, the Native lies about and hides the true number he possesses.

We also realise that radical and drastic attacks on despoiled customs are repugnant to the general principles of British Administration, and may even lead to temporary unrest and resentment amongst the Natives concerned. Nevertheless, the choice appears to us to lie between firm and drastic measures and the complete ruination of this country, which is already in certain Reserves rapidly turning into a sort of Sahara Desert. The areas of practically all Native pastoral tribes are overstocked. Over-grazing is denuding the soil of cover and the goat destroys all the young growth it can, with the result that the soil remains bare and the rapid run off of rainfall is increasing.

It may possibly be claimed that three main factors are concerned in denudation - overstocking, drought and locust - but of these overstocking is by far the most devastating. The damage already done is immense, but luckily is not as yet everywhere irreparable. Some areas closed against stock have, in the course of a year, regenerated a good pasture; in other areas, even after a year's rest, only very careful search will discover any grass roots, let alone green grass. In such areas after rain a spasmodic growth of useless weeds gives a green flush to the countryside. Beyond this there is not a single edible plant below five feet high; the goat has seen to that as well as to the high-level mark of

stripped vegetation of the same height. Erosion on these denuded bare soils is terrific. Over some areas four to six inches of surface soil has been carried off in a year from comparatively level tracts, slopes are a mass of gullies often running down to the country rock. The removal of surface soil has left a hard pan unresponsive of water, giving a most alarming run-off. Each rain, thus, leads to rapidly increasing, irreparable damage.

The European Elected Members wish to stress that the reclamation of land in such a condition is well-nigh impossible, and that in their opinion only legal compulsion can help, and even so, much of what is saved will be damaged land of low carrying capacity. The only salvation both for the people and for the land is a complete change of outlook, a change from the lazy, picturesque pastoralist to the commonplace agriculturist, a change not possible in a few years without extraneous pressure.

With increasing herds and flocks, the same devastation lies before the other pastoral tribes. We are convinced and must urge upon Government by every means in our power that the only way of preventing this is by compulsory de-stocking and the conversion of the poor surplus stock into some useful commodity, if only manure.

The dangers so clearly set out in the article from which I have just quoted are not peculiar to Kenya; they are common to the whole of Africa. The evils, however, are probably accentuated in this country, again owing to a past policy lacking in effective control. Incidentally, we often talk of the damage caused by visitations from pests peculiar to Africa - notably of droughts and locust visitations. Admittedly, these are two of our greatest trials or plagues, but they are periodic. By far the greatest pest in Africa is permanently with us and is increasing rapidly in virulence. I refer to the goat, and would urge on Government


that in the interests of the Natives themselves steps must be taken to control the numbers of these destructive parasites. Next to the goat, possibly the most destructive factor with which we have to contend is the custom of burning the veldt - a custom which destroys plant life and the better grasses and contributes largely to erosion and demudation of the land.

And lastly we would add that a sensible policy of reafforestation is not the most unimportant of considerations. But much depends upon the class of tree which is planted. Eucalyptus trees and gums are not satisfactory as they do not assist precipitation to the same extent as other trees. It is within the power of man to modify climatic conditions to a certain extent by the judicious planting of trees and the choice of the right species in this respect does not always seem to be appreciated in Kenya.

I have dealt with erosion at greater length than I meant to, but I am sure Government will realise how serious and how urgent the problem of overstocking is. We, the European Elected Members, cannot sufficiently stress how terribly serious we consider the present state of affairs. Proposals of the Commissioners to remedy this position will be found set out in Paragraph 2040, amongst which they suggest that the principle of compulsion in reducing the numbers of stock in areas in which the land has been devastated be adopted, and further that the provisions of the Crop Protection and Live Stock Ordinance be put into force in such areas as soon as it is practicable. They also suggest that the imposition of a Stock Tax, not so much as a means of revenue but as a means of control, be considered at the earliest possible moment and that steps should be taken forthwith, either through a Public Utility Company or directly by Government, for the establishment of fertiliser factories; and lastly that a Committee be appointed to consider the matter in detail. On behalf of the European Elected Members I can say that we whole heartedly

endorse all these recommendations and we trust that such a Committee will be appointed at the earliest possible moment, as, in our opinion, the urgency of the problem brooks of no further delay.

I must add that the lamentable state of affairs which exists in the Reserves was forcibly pointed out by the Agricultural Commission which sat under the Chairmanship of Sir Daniel Hall in 1929. The Carter Land Commissioners allude to this most valuable report in Paragraph 1996. On behalf of the European Elected Members I will only add that we trust a little more attention will be paid in 1934 by Government to the Carter Report on this subject than was paid to Sir Daniel Hall's Report in 1929. Five years procrastination has neither been beneficial to the Natives or to the country.

I have endeavoured  I am afraid at inordinate length, but it is impossible to curtail a discussion on a report of this size and of this importance - to comment on that major portion of the Report which deals with individual Native Reserves and the conditions existing in Native Reserves. I now wish to say something with regard to the Commissioners' recommendations regarding and the criticisms of present methods of protection and control and the existing Native Lands Trust Ordinance. On behalf of the Elected Members I beg to state that we thoroughly agree that the existing Ordinance is so complicated and its intentions are so lost in the tangle of its own checks and counterchecks that, not only does it not provide the security that it should provide for the Native, but as it exists to-day it constitutes a serious hindrance to the progress and to efficient control in the Reserves. The present provisions concerning any alteration to tribal boundaries are exceedingly rigid, far too rigid in view of the fact that we are of the opinion (already expressed) that there is no reason to suppose that the present grouping

of tribes will last forever, and that in view of probable future variations of population etc. more elasticity is eminently desirable in the interests of the Natives themselves. For these reasons we thoroughly agree with the arguments put forward and the recommendations expressed in Chapters V and VI of Part III of the Kenya Land Commission Report with, however, two notable exceptions of some importance. The first exception is the recommendation as regards the constitution of Local Land Boards, which, it is proposed, should be composed in future of Natives only under a District Commissioner. We feel very strongly that, as these Boards will in future have important problems to deal with, connected in many cases with the economic development of land, it would be a great mistake to deprive the District Commissioners, or the Natives, of the benefit of the advice when available of local Settlers or Missionaries who, in many cases, have such great practical experience of these very problems.

The second suggestion with which we entirely disagree is that the Members of the Lands Trust Board should be resident in, and the Board established in England. We admit in principle that the main function of the Native Lands Trust Board is to protect and that questions of development and administration and control in the Native Reserves should be the concern of the Kenya Government, but we definitely do not agree that, whilst Members of such a Board are resident in Kenya, the position is either embarrassing to Government or hard for the Natives to understand; and we emphatically contend that trusted but impartial men can be found in Kenya to undertake the serious responsibilities which service on this Board entails, and men, furthermore, who have the additional advantage of having had lifelong experience and knowledge of this country. We note, however, with satisfaction from Paragraphs 25 and 26 of the White Paper that the recommendation that the Native Lands Trust Board should be a London Board has been taunted down by the

of tribes will last forever, and that in view of probable future variations of population etc. more elasticity is eminently desirable in the interests of the Natives themselves. For these reasons we thoroughly agree with the arguments put forward and the recommendations expressed in Chapters V and VI of Part III of the Kenya Land Commission Report with, however, two notable exceptions of some importance. The first exception is the recommendation as regards the constitution of Local Land Boards, which, it is proposed, should be composed in future of Natives only under a District Commissioner. We feel very strongly that, as these Boards will in future have important problems to deal with, connected in many cases with the economic development of land, it would be a great mistake to deprive the District Commissioners, or the Natives, of the benefit of the advice when available of local Settlers or Missionaries who, in many cases, have such great practical experience of these very problems.

The second suggestion with which we entirely disagree is that the Members of the Lands Trust Board should be resident in, and the Board established in England. We admit in principle that the main function of the Native Lands Trust Board is to protect and that questions of development and administration and control in the Native Reserves should be the concern of the Kenya Government, but we definitely do not agree that, whilst Members of such a Board are resident in Kenya, the position is either embarrassing to Government or hard for the Natives to understand; and we emphatically contend that trusted but impartial men can be found in Kenya to undertake the serious responsibilities which service on this Board entails, and men, furthermore, who have the additional advantage of having had lifelong experience and knowledge of this country. We note, however, with satisfaction from Paragraphs 25 and 26 of the White Paper that the recommendation that the Native Lands Trust Board should be a London Board has been turned down by the

Imperial Government. We should, however, like to know what the future composition of this Board is likely to be. Perhaps Government would enlighten us on this point during this debate?

Before leaving this section of the Report, we wish to stress one of the recommendations contained therein and that is that steps should be taken forthwith to render Section 86 of the Crown Lands Ordinance, 1902, and Section 31 of the Crown Lands Ordinance, 1932, inoperative, both in existing and in future leases. We look upon this recommendation as one of considerable importance and we trust that steps will be taken to deal with this matter without delay.

Finally, we need hardly say how wholeheartedly we endorse the recommendation contained in Section 1858 to the effect that the boundaries of the reserves and of class "C" land - Native leasehold areas - should be declared and finally settled by Order in Council.

We now turn to that part of the report which deals with the definition of the European Highlands, in connection with which it will be recollected that the sixth Term of Reference given to the Commission is as follows:-

"To define the area generally known as the Highlands, within which persons of European descent are to have a privileged position in accordance with the White Paper of 1923."

It is an accepted fact that although it has, at any rate since 1905, been agreed that there was an area within which European privilege obtained, nevertheless the boundaries of that area have never yet been defined. Various declarations on this question were made, both by the Land Commission which sat in 1905, by Sir Frederick Jackson, by Lord Elgin, as Secretary of State, and in the White Paper of 1923; and subsequently precise boundaries of this area have been proposed by the Commissioner of Lands in 1924 (proposals which were modified

in 1925), by His Excellency the Governor in 1928, and by a special Sub-Committee of Executive Council which submitted two Reports in 1928. In the opinion of the Commissioners the proposals as regards exact delineation of boundaries which give the fairest interpretation as to what might justifiably be regarded as European Highlands were the recommendations of the 1928 Sub-Committee of Executive Council. The Kenya Land Commissioners have, however, recommended considerable modifications to this Sub-Committee's proposals, notably by suggesting the exclusion of the Leroghi Plateau, to which I have already referred; also by making specific recommendations with regard to a small block of farms to the East of Muhoroni, and by recommending certain readjustments of the Kenya and Elgon boundaries, the Mile Zone and the Kaptumo block of farms. In addition, the Commissioners make a number of other minor exceptions and qualifications and in a schedule on page 490, Section 966, they set out a kind of Profit and Loss Account in detail. The Elected Members have studied these recommendations with great care and with the definite exception of the somewhat vague recommendation made with regard to Leroghi we are prepared to accept the recommendations in their entirety, in spite of the fact, which is admitted by the Commissioners themselves in Section 1978, that acceptance does entail very considerable sacrifices on the part of the European community - sacrifices which are all the more notable in view of the fact that we were led to believe that the gazettment of the Native Reserves boundaries in 1926 would settle the question of the requirements of Natives in respect of land for very many years to come, and yet already in 1934 substantial alterations have had to be made. We realise, however, that at no time has any such thorough and meticulous enquiry into the whole position been made and in order to achieve finality we are prepared to subscribe to the Commissioners' recommendations, on the assumption that, in accordance with Paragraph 9 of the White

Paper, it is the intention of His Majesty's present Government definitely to accept once and for all the Commissioners' definition of the boundaries of the EUROPEAN Highlands, and that such acceptance will be binding on successive or future Governments.

It is only fair to add that apprehension does still exist amongst Europeans that the extent of the Highlands may again be diminished, either by the Government of Kenya, or possibly, should another Party come into power, by the Imperial Government in England. We have always understood - and our wholehearted acceptance and support of the recommendations contained in the Report entirely hinges on this understanding - that the main object of the Commission has been to frame recommendations which would instil a sense of absolute and permanent security in the minds of both the Natives and of the Europeans, and we therefore DEMAND - and I think on this occasion we have a right to demand - that the boundaries of the European Highlands should be finally safeguarded by a suitable Order in Council so that we, the European community, who, after all, have been encouraged to come out, colonise and make our homes in Kenya, may in common justice at least be given the same measure of security in regard to land as is given to the Natives. I must, however, add quite definitely that in our opinion not even an Order in Council can furnish that security, unless such an Order in Council specifically provides for the grant to a Statutory body comprised of the Representatives of the whole of the European Highlands (as recommended by the Commissioners in Paragraph 1496 of their Report) absolute power of veto over all land transactions whatsoever within the boundaries of the European Highlands, on similar lines to the power accorded to the Native Lands Trust Board in regard to transactions in Native lands.

Without this security the whole work of the Commission, as pointed out by themselves, will have been

a waste of time.

Before leaving the subject of European Highlands I must make some allusion to Squatters, or, as they are now termed in legal parlance, Resident Native Labourers. This subject and the problems that arise therefrom will be dealt with later by another Honourable Member. Speaking generally, however, we consider that a greater control of Squatters will have to be exercised in the future, or, from their very numbers, they may become a serious problem. We would like to endorse the view expressed by the Commissioners that steps should, when possible, always be taken to ensure that the essence of any contract as between the Employer and the Squatter must be that it is a labour contract, the Employee being allowed, for his greater comfort, to keep the number of cattle which are necessary for the use of himself and his family. If, however, he is allowed to keep more than that number the character of the contract changes in effect until it is predominantly a tenancy contract, which, in our opinion, ought to be prevented, as being contrary to the purposes for which the European Highlands have been reserved.

We attach some importance to the question of how Government intends to handle the problem of townships in the Native Reserves, as we are not in complete agreement with the basic principle recommended in Section 1544 that townships should remain in Reserves and grow progressively out of plots as need arises. We feel that each case should be treated on its merits and that, should a small township show a tendency to grow into a big town, the procedure recommended by the Commissioners would neither be equitable nor feasible.

A minor point which would seem to require further elucidation is the question of how requirements of future Public Utility Companies are to be met. Section 1539, with which we have already dealt in this House, recommends the setting apart for all purposes of land for all services,

included public purposes, trade and industry. Roads and Railways are treated separately, a special form of setting apart being designed. The question therefore arises - are the purposes of a Public Utility Company legally "public purposes"? It would seem that the procedure with regard to any area in the Reserves that might be required by some future Public Utility undertaking is still somewhat indefinite, but as this is a somewhat complicated subject it might be better to postpone detailed discussion until such time as the appropriate legislation comes before this House.

In Chapter III of Part III the Commissioners deal at some length with Mining Leases and various other matters relating to Mining, including prospecting rights and alluvial mining. The question of "setting apart" as regards mining leases has already been before this House. I will therefore only venture to express the hope that in view of the very promising prospects which the mining industry holds out, Government, in accordance with the recommendations of the Commissioners, will do all in their power, subject always, of course, to scrupulously fair treatment of the Natives concerned, to encourage in every way possible further prospecting and the development of what in the future may be a most important industry. In this respect we beg to draw particular attention to Section 1589, which points out that Natives are on the same footing as the owners of any private land in the Colony with regard to the provisions of Section 15 (2) of the Mining Ordinance, which states that any prospector engaged in bona fide prospecting should be authorized to erect any camp and to proceed or wander over any land for the genuine purposes of prospecting.

Incidentally, this question calls to mind another point which I think requires stressing, although it has nothing to do with mining. In Section 1667 the Commissioners point out that a tendency has been latterly evinced in certain districts - notably in Kiambu - for Natives

to treat the presence of Europeans in the Reserves as if it were a trespass. This attitude should be sternly discouraged. Whilst Natives are naturally entitled to protection, under the ordinary law of trespass, against trespass on fenced land, obviously any person should be allowed to proceed along any road, track or footpath or any uncultivated land and to picnic or camp on any land not planted, provided any damage done is afterwards made good and that non-Natives should not be allowed to camp in any one place for more than a specified time. We consider it is high time that this position should be clearly defined by statute or by rules under the existing Ordinance, and made perfectly clear to the Natives of the country.

Before closing I should remark that on two occasions at least in the Report recommendations are made for the establishment of two National Game Parks - one in the Nairobi commonage and the other in the neighbourhood of Mt. Marsabit. These recommendations we can only support with limitations, as we consider that enough land should first be made available for Natives and their stock before we rush into the creation of Game Parks on a large scale.

In conclusion, we trust that in the course of this Debate Government will be able to give us some information as to what action they propose taking with regard to the more pressing recommendations made and what expenditure such action is likely to entail. We note that in Paragraph 27 of the White Paper the Imperial Government regret that the Commissioners should have expressed their views with regard to the claim which has been continuously put forward from this country for many years past for the unclaimed balances of pay owing since the War to the Military Labour Corps. We feel that we cannot endorse this expression of regret. We congratulate the Commissioners on again putting forward this claim so forcibly, and the justification of their having done so is demonstrated by the fact that the

Imperial Government have, after a lapse of nearly fifteen years, agreed to make a belated settlement of this liability in the form of an "ex gratia" grant of £50,000, which will go some way towards meeting the immediate non-recurrent expenditure suggested in Paragraph 2041 of Chapter XI and in Appendix XIII. Chapter XI, however, gives us but little - if any - idea of what future commitments are envisaged, and, I may add, very little idea indeed of the total amount of expenditure which implementation of the Report will necessitate. Although the Imperial Government has evidently given only the most superficial and cursory consideration to this most important problem, merely making the somewhat obvious remark in the White Paper that the recommendations of the Commission "will entail considerable expenditure", we trust that the Kenya Government, in view of the financial position of the Colony, has been a little more thorough in its examination of this vital question, and that before this Debate is terminated we shall be given more precise information as to the financial implications of the implementation of the Commission's recommendations, as neither the Imperial Government nor the Commissioners give us any idea of how - beyond the £50,000 - the necessary money is to be found.

Your Excellency, I have now completed my attempt to express the views of the European Elected Members on the Report of the Kenya Land Commission, and I trust that in the terms of the Motion full consideration will be given to such views, both by the Imperial Government and by the Kenya Government.

I beg, Sir, to move the Motion, which stands in my name.

Major the Hon. F. H. Beveridge Bentinck

During the course of this Debate Honourable Members have raised a number of points which possibly call for some comment in reply.

The Honourable Member for Nyanza, referring to cattle in townships, made reference to the fact that the problem was common to every township and not only to Nairobi. In the course of my speech moving the motion I only alluded to the problem as affecting Nairobi, firstly because the Commissioners' remarks on this subject largely referred to Nairobi, and secondly because Nairobi happens to be the Constituency which I have the honour to represent. Nevertheless, I thoroughly agree that the problem is common to every township and I will only again refer to Paragraph 634 which lays down that Natives who elect to live in townships cannot expect to be allowed to keep cattle and I trust that Government will henceforward deal with this question, which is by no means an unimportant one, and which has been enquired into by a Committee which sat two years ago and has not yet reported.

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The Honourable Member also referred, whilst dealing with the subject of mining leases, to the fact that the Native Lands Trust (Amendment) Bill would appear to be still in the hands of the Secretary of State and that His Majesty's assent thereto has not yet been obtained, and I would point out that in Your Excellency's communication from the Chair on July 24th Your Excellency pointed out that the main reason for what Your Excellency described as that "Special Sitting of Council", held in July, was the urgency of passing a Bill to amend the Native Lands Trust Ordinance, 1930, in accordance with recommendations of the Carter Report. After going through successive stages and that of a Select Committee, this Bill was read a third time and passed on August 2nd, and I entirely agree with the Honourable Member for Nyanza that it seems difficult to understand, in view of the urgency which was suggested at that time, why this Bill should still be

Another point made by the Honourable Member for Nyansa was with reference to the Leroghi Plateau. In Section 1954 reference is made to a Sub-Committee of Executive Council, which consisted of the Commissioner for Lands, the Chief Native Commissioner and the Honourable Mr. Conway Harvey, which Sub-Committee made proposals as to the boundaries of the area to be known as the Highlands of Kenya. The definition proposed by this Sub-Committee will be found in Section 1953. In Paragraph 1954 the Commissioners suggest that the definition put forward by this Sub-Committee excluded Leroghi. The Honourable Member for Nyansa rightly points out that this was most definitely not the case, in that they recommended - as can be proved by referring to Section 1953 - that the Highlands of Kenya should comprise, amongst other areas, those within the Administrative Districts of Trans Nasia, Uasin Gishu, Ravine, Nakuru, Naivasha, Laikipia, North Kyari and Nairobi, and at the time they made their recommendation what is now known as the Leroghi Plateau was under the control of the Officer administering Laikipia district, and that therefore it was quite definitely the intention of that Committee to recommend the inclusion of the Leroghi Plateau within the area of the European Highlands.

I would next like to allude to some of the points made by the Honourable Mr. Pandya. In the first place, I cannot but express my astonishment that some of the Honourable Members representing Indian interests should oppose this motion, which, after all, merely starts by suggesting that this Council should record its appreciation of the valuable work done by the Kenya Land Commission, notes that the Imperial Government accepted the Report in general terms, and asks that full consideration should be given to locally expressed views. Even if they do not agree with everything contained in the Report, I should hardly have thought that anyone would have wished to refuse to record

their appreciation of the valuable work done by the Commissioners; and the second half of the motion was merely framed in order to give Honourable Members representing Indian interests - as well as ourselves - an opportunity of putting forward their points of view. As far as I can see, by opposing this motion the Honourable Members have put themselves in the position of voting against Government, giving consideration to their views - which views they then proceeded to put forth at very great length!

The Honourable Mr. Pandya stated that he could understand why Natives should require security, but could not understand why members of an advanced race such as the European Settler community should require it. However, I must thank him for having saved both myself and this House a great deal of trouble, for, having opened his remarks with this question he, and subsequently his colleagues, then proceeded to answer it themselves in great detail and at some length! Nevertheless, I will give him just one perhaps additional or possibly merely more comprehensive answer by referring him to the Form of Reference No. 6 given to the Commission, which reads as follows:

"To define the area generally known as the Highlands, within which persons of European descent are to have a privileged position in accordance with the White Paper of 1922."

Now the Commissioners have defined the area within which persons of European descent are to have a privileged position in accordance with the White Paper of 1922, and it is therefore quite obvious that if we allowed the recommendations of the Commission on this - is no vitally important subject - to be implemented in some ambiguous or slipshod form we shall be betraying, not only those who put us in this House, but the future inhabitants of these White Highlands.

Mr. Pandya takes exception to any Order in Council as meaning finality, and in support of this he quotes the Commissioners' evidence regarding the boundaries of individual tribes. As regards the boundaries of individual tribes, within the areas of Native Reserves, I agree with Mr. Pandya and the Commission. ^{But} The Commission was perfectly definite as regards the boundaries and total area of the Native Reserves - and we maintain that they should be equally final regarding the definition and total area of the European Highlands.

A great point has been made by both the Honourable Mr. Pandya and the Honourable Mr. Isher Dass of their allegations to the effect that the land available for Europeans is not being properly utilized but that it is being held by owners for the purpose of speculation in Land Values. The Honourable Mr. Pandya suggested that only 11% of the land in the European Highlands is at present occupied beneficially. The Honourable Mr. Isher Dass stated that 57% of the land was not developed by Europeans. Dr. de Souza gave the figure at 10% or 11%. I do not know where they got their figures from, but presumably they are misquoting from a table which appears in the Report by Sir Daniel Hall, in which (speaking from memory) I think it is stated in a schedule that the amount of agricultural land which has actually been ploughed and planted amounted at that time to between 11% and 12% of the total available area. This, of course, in no way refers to land tilled or developed in other ways - it merely refers to land actually ploughed and planted in that particular year. In order to refute once and for all this complete and deliberate distortion of the truth, I would refer the Honourable gentlemen to page 9 of the Agricultural Census, 1922, and I can give them figures to add to that Table which can be substantiated by reference to the Agricultural Department, to the effect that in 1922 the number of acres of land in the

European Highlands was 2,107 and the total area developed was 2,214,952 acres - or 54.1% of the total occupied area. In 1923 the total area developed was 2,873,434 acres - or 55.2% of the total occupied area; and I would add that these percentages compare very favourably with the percentages of developed areas of occupied land in the Union of South Africa or Rhodesia - territories which are very much older than Kenya.

I do not think any further refutation of the allegations made is really necessary. I will, however, add Export figures in regard to the value of exports as between European and non-European production - also extracted from the Agricultural Census, 1933, - which will show that the total value of exports in 1930 as from European sources amounted to £2,712,657, as compared with a value from non-European sources of £396,750. In 1933 the total value of exports from European sources amounted to £1,706,630, as compared with a total of £262,100 from non-European sources.

The Honourable Mr. Pandya also made certain references with regard to the Leroghi Plateau, and I should like to pay this tribute to him, that, unlike my Reverend and Honourable friend who represents Native interests, he did not allow his enthusiasm entirely to obliterate his sense of proportion or his fair-mindedness, in that he admitted - although he did not agree with us - that "there was a good case on both sides".

I notice, incidentally, that the Honourable Mr. Pandya accused the European Elected Members of glossing over Paragraph 1573, which refers to the recommendations of the Commissioners with regard to the Kaimosi and Kipkarren blocks, for the reasons that their findings on this question went in our favour, whereas he suggested that we unduly stressed findings which had gone against us. I would, however, draw the Honourable Member's attention to the fact that I did allude to

the recommendations made by the Commissioners with regard to the Kaimosi and Kipkarren blocks at great length - as also did the Honourable Member for Nyansa.

The Honourable Mr. Isher Dass made a perhaps not very coherent but militant speech which I had some difficulty in following. I do not think it contained anything to which I need refer, beyond certain of his major misstatements, which I may as well refute.

Early on in his remarks he took exception to a statement which he alleged I made to the effect that Europeans had been asked to come to Kenya and colonise. Actually what I said was that we had been encouraged to come here, colonise and make our homes in Kenya, in substantiation of which statement I need only refer to the Soldier Settlement Scheme, to which reference has already been made in the course of this Debate.

The Honourable Member next stressed the fact that the Commissioners had gone beyond their terms of Reference, in that they were never asked to extend the areas of the European Highlands, but merely to define them. This point was also made by other Honourable Indian Members and in reply I would refer them to the map facing page 2840 of Volume III of the Evidence, on which they will see the various suggested areas of the boundaries of the European Highlands as delineated in the past, and it will be quite clearly shown - as indeed it is admitted by the Commissioners themselves - that the new area as defined in the Report is considerably smaller in extent than any of the areas shown on the map to which I am referring. The Commissioners therefore have - far from extending the area - in fact, considerably reduced it.

The Honourable Member also referred to the subject of the alleged speculation in land by the Europeans. I have already refuted this statement.

Later on he alluded to the handing over

of forest in the Native Reserves to the Forest Department or to declaring it as Native Forest Reserve and he alleged that the proceeds of sales in Native Forest Reserves went into general revenue. I can inform him that this is not the case, as the proceeds of sales in Native Forest Reserves do not go into general revenue but to the local Native Councils concerned.

Lastly, he picked on an expression used by the Honourable Member for Nyanza in which he made use of the words "labour force" when referring to Resident Native Labourers and twisted it into the expression "forced labour" - words which were never used by the Honourable Member.

The Honourable Member for Nairobi South referred to the question of townships and I think he bore out the remarks I made in opening this Debate to the effect that the European Elected Members felt some diffidence in expressing complete agreement with the basic principle recommended in Section 1544 to the effect that townships in the Native Reserves should remain in the Reserves and grow progressively (and, I may add, probably grow on no regulated lines) out of plots as need arises.

I will now turn to the remarks made by the Honourable and Reverend Canon Burns, who made a very excellent speech, but who, I feel, allowed his enthusiasm to override his sense of proportion, as I shall demonstrate.

He first referred to the Profit and Loss Account which appears in the Report as a "mathematical manipulation" and quoted certain circumstances with regard to the Chanja block in support of this allegation. At a later stage he produced precisely the same arguments with regard to Leroghi in order to prove an opposite contention. His arguments in this regard appear to be somewhat contradictory.

I was, however, pleased to note that the Honourable and Reverend Member endorsed my remarks re the "Githaka" system, by saying that he ~~himself~~ finds himself

confused.

During the course of his speech the Honourable and Reverend Member dealt with the question of Squatters and I think some confusion must also exist in his mind on this subject, in that in the course of his remarks he suggested that 110,000 Mikuyu Squatters would have to be sent back to their Mikuyu Reserves - in other words, that all Mikuyu Squatters at present outside the Reserves will be sent back - a contingency which will never arise. In dealing with this subject the Honourable and Reverend Member quoted Section 498 only and I cannot understand why he made no allusion to Chapter VIII, Part III of the Report, which deals at length with the question of Squatters of Resident Native Labourers; nor can I understand why he made no allusion to Sections 1860 and 1868 in this Chapter. In Section 1868 it will be noted that the Commissioners recommend extensive additions to the Mikuyu Reserves on economic grounds and have provided for the establishment of a large "C" area on the Yatta. They go on to state that these two facilities, together with other recommendations, should go far to alleviate the difficulties of finding accommodation for the expired squatters and should be adequate to meet any contingency that is likely to arise for many years to come. I would also draw the Honourable and Reverend Member's attention to page 471 - again in Chapter VIII, Part III - from which he will note from Table No. 4 that an area of 10,000 acres or 330 sq. miles has been set apart as native areas class "C", in which natives will be able to obtain accommodation.

Incidentally, it will be within the recollection of Honourable Members that during the Debate some exception was taken to the remarks made by the Honourable Member for Nyanza on the subject of Government's delay in the past in dealing with this very problem. I would only add that it took the Elected Members five years to get a Committee appointed to deal with the subject of Squatters, and as this Committee was appointed a year or so ago and does not yet appear to have come to any conclusion, it would not seem unreasonable that the Honourable Member should have asked that the work of compiling some suitable amending legislation should be expedited to the fullest extent.

Reverting to the speech made by the Honourable and Reverend Member representing Native interests, I noted that he made some allusion to the question of Pangani village, from which I think he more or less supported my views, but he took exception to my suggestion that there were undesirables there. I would like to state that I quite agree with him that there are also a large number of respectable people there. What I said was that Pangani had a notable preponderance of undesirables.

When dealing with the subject of Leroghi and the Samburu I fear that the Honourable and Reverend Member succumbed to the temptation of adopting the tactics of a publicity expert and of making a theatrical demonstration instead of concentrating on basing his remarks on the arguments he has heard put forward during this Debate, or even on the evidence adduced by the Commissioners themselves.

The Honourable and Reverend Member, when dealing with this subject, commenced by drawing attention to Paragraphs 268 and 269.

I should like here and now to inform the Honourable and Reverend gentleman that the European Elected Members are in entire and absolute agreement with the principles laid down in Paragraph 269. What we contend,

however, is that Leroghi Plateau is not essential to the Samburu, for the simple reason that another area is available. The Honourable Member, however, referred to this alternative area as a "Valley of Desolation and Death". He said that we were prepared to drive out 8,000 Africans with 50,000 head of cattle into this "Valley of Desolation and Death". I cannot let a statement of that kind pass. If I am a little rough in answering it, the Honourable and Reverend gentleman will admit that he brought it on his own head by making such a serious and unfounded allegation.

First and foremost, let me deal with the numbers of cattle which he states the Samburu have on the Leroghi Plateau. A count was made location by location by Mr. McKay last year - that is during 1933 and during the time the Commissioners actually sat. Personally, I think a lot of cattle were driven up there for the special purpose of establishing the Samburu claim, and I still do not believe that that number of cattle is on Leroghi today. However, that is a personal opinion, and I and the European Elected Members are prepared to accept this count, which was very carefully made, location by location, and will be found given on page 1632 of the Evidence, Volume II. The total number of cattle, according to Mr. McKay, on the Leroghi Plateau amounts to 38,591. We therefore will accept the figure as 6,000 souls and 38,591 head of cattle. In Section 892 it is laid down that either Leroghi or some other grazing area is necessary for these Samburu on economic grounds. Naturally, we do not deny this. We merely suggest that they can go into the area referred to in Section 885, which the Whitehouse Committee reported in February, 1930, as being capable of carrying 41,000 head of cattle all the year round (See page 1461, Volume II of the Evidence). That area the Honourable and Reverend gentleman refers to as a "Valley of Desolation and Death" - yet it is the area which this Committee reported as

being capable of carrying 41,000 head of cattle. Also it is the area from which the Samburu themselves were removed by Sir Edward Northey in 1919 and to which the Samburu themselves asked to be allowed to return at the barasa held by Sir Edward Greig at Barsaloi in September, 1928. Nor is that all. It is also an area to which a gentleman who is now an Honourable Member of this House, who was one of the Commissioners of the Kenya Land Commission, and who was at that time provincial Commissioner of the Northern Frontier Province (I refer to *Ch. H. H.* Mr. Rupert Hemsted) recommended the Samburu should be sent in 1929. Finally, to describe this area as a waterless desert - which was a further misrepresentation of facts made by the Honourable and Reverend gentleman - displays a complete lack of sense of proportion, to put it mildly. ~~It is a case of a deliberate misrepresentation of facts~~ - in that this area is bounded on the North by the Usiu Nyiro River, which is fed by three tributaries - the Eguo, Doro, the Siolo and the Mara - all of which run through this area, actually making it the best watered piece of country in the Northern Frontier Province. I may add that all the foregoing facts can be substantiated by the volume of evidence.

It is incomprehensible to me that a man of Captain Burns' integrity, who has had 26 years' experience of this country and of the Settlers in this country, should stoop to make such a scandalous accusation against the European community. He ought, at least, to give us credit for not allowing ourselves to endeavouring to seize land at the risk of sentencing 4,000 Natives to starvation. Surely - even if he cannot give us this credit - he might at least give it to his colleagues representing Native interests in this Council, who, I repeat, himself recommended that the Samburu should be sent to this very area in 1929.

Now, I have been quizzed by several Members - including the Honourable and Reverend Member - with

regard to my examination of the Leroghi Plateau by air, and in my defense I need only quote Paragraph 847, which reads:-

"The plateau may be said to comprise roughly all the high land between the so-called Kittermaster and Coryndon lines. The position of this latter is uncertain, but appears to follow the foothills of the escarpment to the north. The survey figures of the area give it as 870 sq. miles, of which only 300 sq. miles are said to be suitable for European settlement, and 130 sq. miles are forest. We have not been able to obtain a description of the remaining area of 440 sq. miles, but it is believed to consist largely of barren, precipitous, lava hills of little value for stock or agriculture. ~~A more detailed account of the character of the plateau will be found in the précis.~~"

In that Section it will be seen that the Commissioners state that they have not been able to obtain even a description of 440 sq. miles - but believes it to consist largely of barren, precipitous, lava hills of little value for stock or agriculture. This, I may inform Honourable Members of this Council, is a description which appears on and was taken from an old (and probably still the only available) map of that area. It is utterly incorrect. The hills are not barren. Nor are they, in many cases, precipitous - and are of a rolling, downlike character, with a certain amount of forest, a considerable amount of permanent water in the many gullies and a very large amount of good grazing. I at least have seen them - which is more than either the Commissioners or the Honourable and Reverend gentleman can claim.

I will only refer to one remark made by the Honourable Dr. de Souza on the subject of the Soldier Settlement Scheme, and would draw that Honourable Member's

attention to the fact that he has evidently mixed up what we know as the Soldier Settlement Scheme with what has always been known as "B.E.D.O.C.", or the British East African Disabled Officers' Colony, which was a private enterprise in no way associated with the Soldier Settlement Scheme.

The Honourable Mr. Shams ud Din commenced a long speech by commenting on the cost of Legislative Council. The figures he quoted are not, however, reflected in the estimates. I rather gathered from the Honourable Mr. Shams ud Din's remarks that he objected to this Session of Legislative Council, whereas the Honourable Dr. de Souza, who spoke immediately prior to him, apparently wanted this Session - provided it was called on the initiative of Government and not on the initiative of the European Elected Members!

I will now deal with the sole contribution made to this Debate by Government. I must thank the Honourable Commissioner for Local Government, Lands and Settlement for very kindly commencing his remarks by making very complimentary allusions to the speech which I made in proposing this motion, and will retaliate by informing him how much I admired the extremely clever contribution which he made to this Debate yesterday. It was most carefully worded and concise. In fact, from the point of view of Government, it was so clever that for some time I thought we were going to get something more than merely whitewash - but the fact remains that fundamentally his contribution ~~was~~ whitewash and nothing more!

He started by giving us an interesting and detailed history of the various Commissions that had made enquiries prior to the appointment of the Kenya Land Commission. He then proceeded to inform us that the Commissioners had heard a very large number of witnesses and had had access to a very large number of documents - as the

result of the sifting of which evidence they had pronounced judgment in terms which naturally were not likely to please everybody. All this we appreciated ^{would be the case} long before the report came out and since it has come out I think I can claim that on the whole we have loyally accepted the verdict they gave.

He then mentioned that there were three particular subjects on which they had pronounced indefinite judgment, to which exception was taken - to wit, Leroghi, the Mile Zone and the Profit and Loss Account.

As regards Leroghi, I would point out that they gave no definite verdict, and would refer him to Paragraph 807, as to what the future of Leroghi was to be after a period of years. On the other two subjects we, on this side of the House, at any rate, have accepted their verdict.

He then hurriedly ~~slashed~~ slapped a little plaster over the action of Imperial Government in issuing a White Paper before even the Government out here had had access to the recommendations of the Kenya Land Commissioners - by saying that this was one of the matters which had to be taken out of the purview of local politics, owing to the interest taken by Imperial Government in the question of Native rights. As far as we can see, things are being taken out of the purview of local politics to an increasing extent by Imperial Government, so much so that any question of any importance at all is nowadays referred for a decision to the Secretary of State, and we - quite rightly - object to this practice.

The Honourable Member then made numerous quotations from the White Paper. Amongst others, I think he quoted Paragraph 9, in which His Majesty's Government expressed their acceptance of the Commissioners' definition of the boundaries of the European Highlands. I congratulate the Honourable Member on the careful phraseology of his reference to this question. I think his words were roughly these:-

"That, although he admitted a diminution of the area previously known as the White Highlands had been recommended in order to meet the needs of the Native population, present and prospective, with regard to land, ample compensation for that diminution was made by the fact that we secured finality and security against further diminution from the same cause."

In juxtaposition to this carefully phrased statement I will repeat the equally carefully phrased statement I made in opening the Debate and will leave Government to draw its own conclusions, merely adding that we on this side of the House are in deadly earnest on this question:

"It is only fair to add that apprehension does still exist amongst Europeans that the extent of the Highlands may again be diminished, either by the Government of Kenya, or possibly, should another Party come into power, by the Imperial Government in England. We have always understood - and our wholehearted acceptance and support of the recommendations contained in the Report entirely hinges on this understanding - that the main object of the Commission has been to frame recommendations which would instil a sense of absolute and permanent security in the minds of both the Natives and of the Europeans, and we therefore ~~insist~~ - and I think on this occasion we have a right to demand - that the boundaries of the European Highlands should be finally safeguarded by a suitable Order in Council so that we, the European community, who,

after all, have been encouraged to come out, colonise and make our homes in Kenya, may in common justice at least be given the same measure of security in regard to land as is given to the Natives. I must, however, add quite definitely that in our opinion not even an Order in Council can furnish that security, unless such an Order in Council specifically provides for the grant to a Statutory body comprised of the Representatives of the whole of the European Highlands (as recommended by the Commissioners in Paragraph 1496 of their Report) absolute power of veto over all land transactions whatsoever within the boundaries of the European Highlands on similar lines to the power accorded to the Native Lands Trust Board in regard to transactions in Native lands."

The Honourable gentleman next expressed resentment to the attacks made on Government on the grounds of its past policy of "benign laissez faire". I will only say that my attacks took the form of quotations, and, on each occasion, I merely quoted the actual words of the Commissioners. So it was not - as the Honourable Member tried to make out - merely the usual attack on Government by the European Elected Members, it was an endorsement of the definite attack made on Government's policy by the Commissioners themselves.

In dealing with this subject the Honourable gentleman again whitewashed Government by saying how difficult it was, or how onerous it was, to take any steps to remedy the desperate position existing today in the Native Reserves, which I and other Honourable Members of this House delineated. He quoted the four considerations which had

to be taken into account in dealing with overstocking - such as Native conception of cattle, custom of marriage dowry, communal grazing and the "Pax Britannica". He alluded to the difficulties of inducing private enterprise to put up a meat factory, to the difficulties of inducing Natives, who have been squeezed dry by Hut and Poll Tax collections, to purchase meat from butcheries established in Native Reserves, and, of course, he referred again and again to expense. I myself outlined all these difficulties in my opening speech. We thoroughly realise that there are difficulties, but in view of the enormous overhead expenditure which it takes to run this country we have a right to ask for something more than just an outline of these difficulties in a careful speech in Legislative Council.

The fact is there is no continuity of policy - and could this be shown more clearly than by the remarks the Honourable gentleman made in regard to re-conditioning? He quoted from three successive annual Reports what was being done on one hillside in the Machakos area and he quoted another case where something was being done in the Kanasia Reserve - to which efforts, incidentally, I had already made allusion in my opening speech. And what was the sum total of what had been done - and done, incidentally, by specially able individual District Commissioners and not by Government at all. The whole effort amounted to this - something had been done on one hillside near Machakos, and ten square miles in the Kanasia Reserve had, to a greater or lesser extent, been re-conditioned. This was all Government could show as having been done as regards re-conditioning or some sort of "control" in the whole Colony.

During the Debate every Member who referred to this question referred to Paragraph 2040 and asked what Government was doing with regard to the Commissioners' recommendations, but we were not favoured with a reply - and

Yet Paragraph 2040 contains probably the most important recommendations made by the Commissioners in the whole of their Report! All we were told was contained in a nebulous statement to the effect that "various Rules and Regulations would be introduced in various districts", and that such policy as the Government had or proposed to follow was that of "propaganda, education and securing the goodwill of the Natives" ;

Incidentally, the Honourable Member made no reply to the question asked by the Honourable Member for the Plateau, who asked why the Native Marketing Bill had been withdrawn. Nor did he deign to allude in any way to the very definite question I asked in my opening speech as to whether the Kenya Government had examined the vital question of the financial implications of the implementation of the Commission's recommendations.

Your Excellency, it was suggested yesterday that Honourable Members on the other side of the House have come to regard themselves as the natural target for the somewhat unreasonable and unjustified shafts and arrows directed from this side. I can assure Your Excellency that we do not wish to attack. Our ambition is to assist Government to get on with the job! In our anxiety to be helpful Members on this side of the House, many of whom have had far more years' experience of this country than the Members facing me, have put forward during this Debate views and criticisms on vital questions concerning agriculture, animal husbandry, Native administration etc. etc., and yet neither the Honourable the Minister of Agriculture nor the Honourable Chief Native Commissioner nor the Honourable the Colonial Secretary have considered the Debate as of sufficient importance to warrant any contribution from them. Government have put up their most able speaker to make an "apologia" on their behalf. It really does look as though the attitude

of Government is this - "Sir Daniel Hall and the Agricultural Commission tell us that the position in the Native Reserves is desperate and that Government's policy can only lead to disaster. The Carter Commissioners express a similar opinion. The Elected Members urge that something should be done". But apparently Government considers itself above criticism and continues to flounder along majestically, expensively and unperturbed.

C. O.

23034/37

67
43

- Mr. Justice 14/12
- Mr.
- Mr.
- Mr. Parkinson
- Sir G. Tomlinson
- ✓ Sir C. Bellamy 14.12.32
- Sir J. Shuckburgh
- Permt. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

Keen
Annexed by Notes
Copy sent
1307-14 12 31

14

DRAFT. Tel.

Important
Governor
Nauru

Conf. No 247. Question

Being asked in Parliament 18 Dec.
begin whether any supplementary
terms of reference or instructions
other than those appearing on
page one and two of
Report were issued to the
Morris Carter Land Commission
ends to an answer

of matter referred to in
your letter of 7th Nov. 1932 No 207
your despatch 3rd Dec. 1932
No 147 Conf. and your despatch 7th April 1933
No 41 Conf. Telegraph

FURTHER ACTION.

- 16 on 17219/31
- 1 on 1817/1/32
- 4 on 3006/1/33

with least possible delay brief
particulars of further points
if any on which supplementary
instructions or requests for
interim recommendations were
formally addressed to the Commission.

SECRET

C.O.

23034/11

Mr. Keeton 15/11

Mr. Hunt

Mr.

Mr. Parkinson

Sir G. Tomlinson

X Sir C. Bottomley 16/11

Sir J. Shuckburgh

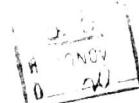
+ Permt. U.S. of S. 16/11

Parly. U.S. of S.

+ Secretary of State

Kenya

Air Mail



Sir,

DRAFT.

Kenya

Conf. (2)

Gov. Byrnes

I have so. to transmit
for your consideration a copy
of a letter from the Secretary
of the Kenya Land Commission
drawing attention to certain
apparent discrepancies between
the Commission's recommendation
and the machinery for
safeguarding the integrity
of native lands, and the
paragraph summarizing
those recommendations in
the White Paper setting out
the conclusions of H.N.G.

FURTHER ACTION.

on the Report (Cont. 4080).

2. As regards the A Lands, I consider that the Order-in-Council should be so drafted as to permit the carrying out the minor alterations and adjustments enumerated in the third paragraph of Mr. Fagan's letter in conformity with the reconstituted Native Lands Trust Ordinance, the essential clauses of which will themselves be safeguarded by Order-in-Council.

3. The B1 lands, also which are defined in para. 1456 of the Report as land required to fulfil a need which is likely to be permanent, should in my view be accorded exactly the same measure of protection as the A lands. They should accordingly be included in the Order-in-Council; the inclusion of the new Native Lands Trust Ordinance

though I consider B1s are will be subject to conditions as recommended by the Commission.

C.O.

Mr.
Mr.
Mr.
Mr. Parkinson.
Sir G. Tomlinson.
Sir C. Bottomley.
Sir J. Shuckburgh
Permt. U.S. of S.
Parly. U.S. of S.
Secretary of State.

DRAFT.

FURTHER ACTION.

with no doubt, be drafted in
69
accord harmony with para.
1459 of the Commission's

miscor / (Risk is) ^{Report} ^{and} ^{then} ^{very}
illogical to include the 'C' lands
in the report to be prepared to
exclude the B1 lands

agree to excluding from
the Order-in-Council lands
falling within the category
B2; viz. land required
for "some special need,
which may be only temporary
in character". The security
of these areas will, in
my judgement, be
adequately ensured by
the procedure envisaged
in para 1456 of the
Report.

(Sgd.) P. CUNLIFFE-LISTER

Ms. Boyd 19/11/24
Ms. P... 20

23024/4
Kilgus

Added sent
10 Jan
24/1/24
W.H.F.

- Ms. Parkison.
- Mr G. Tomlinson.
- Mr C. Bottomley, 20.
- Mr J. Shuckburgh
- Mr P... U.S. of S. 20
- Party, U.S. of S.
- Secretary of State.

Amended by No 67

FXC

Confidential. N° 281.

C 7
R 21 NOV
D 21

Your Confidential despatch

25 Oct. 1924. Constitution of Native

DRAFT.

OFFICE TEL. (code)

Lands Trust Board, so important that I

must have Cabinet approval before

~~question is finally settled~~
~~proposal is put forward finally.~~ I

do not feel that in view of the very strong views expressed by Beasted I

could insist on having the Commission ~~hand~~ ~~Department~~ as one of the members. It

would place us in a very difficult position, if the ~~Commission~~ ~~Department~~ ~~Board~~ ~~in~~ ~~case~~, and however

inconvenient it may be to leave out

the Commission, ~~Department~~, I

think we must do so, particularly as

GOVERNOR
NAIROBI.

*Proposed substituted
sent to you
in 2/1/24*

ACTION.

*Commission
instituted
in 2/1/24*

we have overridden the proposal that

the Board should be established in

London, and have insisted on having

the Chief Native Commissioner as the

Chairman. You will remember that my

original proposal had been that the

independent members should not be members

of the Legis. Council, but I gather that,

while you have made no commitment to the

European Unofficial Members, you do attach

great importance to having their leader on

the Board. I am very much averse to

having any private or secret undertaking,

which is certain to become known, and if we are

to do this we had much better make a full state-

ment of our proposals. If it is accepted that

Lord Francis Scott should be one of the two

independent members I think

should certainly not be an Elected Member.

*Commissioner for the
W. always attend
meetings.*

C. O.

Mr.

Mr.

Mr.

Mr. Parkinson.

Sir G. Teminson.

Sir C. Bottomley.

Sir J. Shuckburgh

Parlt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

Whom would you suggest for the second

appointment? It is possible I may

have a suggestion to make in the near

future.

DRAFT.

FURTHER ACTION.



10
-72

GOVERNMENT HOUSE
NAIROBI.
KENYA

KENYA.

No. 154

CONFIDENTIAL.25th October 1954.

Sir,

With reference to paragraph 7 of my despatch No. 83 of the 7th June last, and to your Private and Personal telegram of June 1st on the subject of the composition of the new Central Lands Trust board, I have the honour to inform you that I have been in communication with Captain Wilson and Mr. Hemsted.

2. The composition proposed in the despatch under reference was put to them, and I attach copies of the Colonial Secretary's letter No. LND. 22/5/3/42 of the 8th September addressed to Mr. Hemsted, and No. LND. 22/5/3/43 of the 8th September addressed to Captain Wilson and copies of their replies thereto. I think both Captain Wilson and Mr. Hemsted will probably agree, or not raise serious objections, to a board composed of:-

1. The Chief Native Commissioner as Chairman.
2. The Commissioner for Local Government, Lands and Settlement.
3. The two Members of Legislative Council nominated to represent Native interests.
4. Two independent members (one of whom it would be agreed should be the leader of the European Elected Members).

3. I agree that the appointment of one Provincial Commissioner should be ruled out, but I consider it advisable that the Commissioner for Local Government, Lands ...

THE RIGHT HONOURABLE

MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C. G.B.E. M.C. M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S. W. 1.


Lands and Settlement should be a member. I see no reason to object to the reduction by one of the official members.

4. Before putting the matter formally to Executive Council, I should be glad to know if a board so constituted would meet with your approval.

I have the honour to be,

Sir,

Your most obedient, humble servant,



BRIGADIER-GENERAL.

G O V E R N O R.

8th September, 1934.

C. IND. 22/3/42.

Dear Hemsted,

The constitution of the Central Native Lands Trust Board is one of the questions which will no doubt be raised in the forthcoming debate on the Land Commission Report in Legislative Council next month.

2. You are aware that it has been decided that the Board should be in Kenya. The proposal, which the Secretary of State also favours, is that the Board should be constituted as follows:-

The Chief Native Commissioner, Chairman.
The Commissioner for Local Government, Land
and Settlement.
A Provincial Commissioner.
The two Members of Legislative Council
representing native interests.
Two unofficial members to be nominated by the
Governor.

I should be much obliged if you would be good enough to let me have your views on this proposed constitution as early as possible so that they may be considered before the question is dealt with in Council. I am sending you for your convenience a Memorandum on the Functions and Duties of the Central Board.

3. If you are unable to agree to the composition proposed above perhaps you will be good enough to call at this office and discuss the matter. You will realise that it is one of some urgency.

4. I am also writing in similar terms to Wilson.

Yours sincerely,

(Sgd.) A. J. WALKER.

95
COPY.

FUNCTIONS AND DUTIES OF CENTRAL BOARD.

1. To maintain the integrity of the boundaries of Class A lands against any alterations except such as may lawfully be made under the Ordinance - para. 1439 -

N.B. vide para. 1441 an Order in Council is to protect against amendment by Government those clauses of the new Ordinance which

(a) declare the external boundaries of Class A lands.

(b) define the conditions on which such boundaries may be altered or amended.

2. To make representations to the Secretary of State or the Governor if the Class A lands are not being administered, managed developed and controlled for the use and benefit of the natives as provided in the new Ordinance - para. 1439 and 1664.

3. But if major adjustments in boundaries as between Class A lands become necessary the responsibility is to remain with Government - para. 1449 - The Board is only to be consulted. The Secretary of State has the decisive voice and the alteration is to be effected by Order in Council - para. 1449.

Minor adjustments should be within the power of the Governor - para. 1450. Also adjustments between tribes within a Class A unit - para. 1451.

4. To hold the trust of Class A lands - para. 1639.

5. To have protection over B.I. lands - para. 1459.

6. To be consulted re termination of leases of B 2 / lands - para. 1460.

6A. To agree to exchanges - para 1475.

7. To approve leases to non-natives in C areas.

paras. 1457 - 1469.

8. To be consulted re special inter-tribal leases

leases - para. 1486.

9. May vote setting apart of areas in excess of 10 acres or individual plots exceeding 10 acres - para. 1526 and 1531/1532.
10. Where land to be set apart does not exceed 100 acres or where land to be leased does not exceed 50 acres the Board should delegate its powers to Chief Native Commissioner - paras. 1545 and 1451.
11. Should receive formal notification of any large scale alluvial mining propositions before it is granted for criticism and have the right to comment on it to Governor or to Secretary of State - para. 1594.
12. Board should ~~not~~ be the authority for permitting prospecting in Native Reserves - para. 1594.
13. As regards water

(a) In a Reserve
it should be notified and be empowered to object.

(b) outside a Reserve
it should have same rights as other lower riparian owners and be able to sue and be sued - para. 1600.

N.B. (a) Board should ~~not~~ be the final authority re. water permits.

Board should have same rights as a private landowner for protecting lower riparian interests. Board should have same rights and liability to sue and be sued as a private landowner - para 1599/1600.

Chief Native Commissioner to deal with all matters in this connection - para. 1600.

14. As regards Roads and Bridges - it should have no power of vote but only of making representations to Secretary of State - para. 1510.

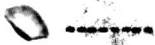
15. Board should have no power of recommendation

3.

acquisition of additional area for addition to Reserve - para. 1616/1617.

16. Ref. Forests no land in a Native Reserve should be declared Forest Reserve without approval of Board but Board should have no say in management of a Forest area - para. 1618.

17. Position of Board vis-a-vis licences to graze, remove timber stone etc., summed up in paragraph 1628.



NEED
FOR

Dear Wade,

I am sorry for the delay in replying to your letter C/IND.22/5/3/42 of the 8th inst in regard to the constitution of the Lamia Trust Board, but we have taken a house at Miani and the arrivals and departures of mails are infrequent.

Although the decision of the S/S that the Board must be in Kenya modifies our recommendations to some extent, I must say that its constitution as now proposed seems to be completely at variance with everything we recommended. It is composed of 3/4ths officials and entirely of members of Leg.Co. The Report said 'inter alia', that we were strongly in favour of an independent Board, and considers it essential that it should be removed from the sphere of local politics.

However, when Wilson and I saw M.E. on the subject he agreed that the C.M.C. should be on the Board and act as Chairman, and also that the two members representing Native interests should be on the board. I cannot quite remember if we agreed to two of the Unofficial members, but I know that we agreed to their leader being a member of the Board.

I do not say that the proposed Board will be anything but fair and impartial, and it will command the confidence of the Natives as much (or as little) as any local Board consisting entirely of Europeans will do, but personally I should like to see it constituted somewhat as follows:-

- The C.M.C. as Chairman.
- Two members of Leg.Co. representing Native interests.
- One Unofficial member of Leg. Co. who by a gentleman's agreement, should be the leader.
- Three independent members, i.e. who are not Govt. officials or members of Leg.Co.

I realize that the latter may be difficult to find, but on the principle that a Poacher makes the best game keeper, I would suggest one as one of them.

I do not wish to encourage Govt. by opposing the C.M.C. proposals, but it seems to me a serious decision. If I agree to the Board as now proposed, it would be tantamount to withdrawing all the recommendations made in the subject matter in the Report of the Lamia Commission.

I am afraid I shall not be back at Ngong until about the 20th Oct. but will call and see you before Leg.Co. meets.

Yours sincerely,
EDIN.W.HAMMOND.

G. M.D. 22/5/43.

5th September, 1944.

Dear Wilson,

The constitution of the Central Native Lands Trust Board is one of the questions which will no doubt be raised in the forthcoming debate on the Land Commission Report in Legislative Council next month.

2. You are aware that it has been decided that the Board should be in Kenya. The proposal, which the Secretary of State also favours, is that the Board should be constituted as follows:-

- The Chief Native Commissioner, Chairman.
- The Commissioner for Local Government, Lands and Settlements.
- A Provincial Commissioner.
- Two Members of Legislative Council representing native interests.
- Two unofficial members to be nominated by the Governor.

I should be much obliged if you would be good enough to let me have your views on this proposed constitution as early as possible so that they may be considered before the question is dealt with in Council. I am enclosing you for your consideration a Memorandum on the Functions and Duties of the Central Board.

3. If you are unable to agree to the composition proposed above perhaps you will be good enough to call at this office and discuss the matter. You will realise that it is one of some urgency.

4. I am also writing in similar terms to Mr. [Name Redacted].

Yours sincerely,

(Sgd) A. de V. [Name Redacted]

1. 12. 34.

Dear Wade,

Thank you for your C/LMD.22/5/343 of the 11th inst. I thought I had made my views on the composition of the Native Lands Trust Board quite clear at an interview Hemsted and I had with H.A. in June 28th. briefly they are as follows:-

(1) In view of the fact that the Board is now to be in Kenya I agree that the C.A. should be on the board and act as its Chairman.

(2) I agree that the two unofficial members of Leg.Co. representing native interests should be on the board.

(3) I agree that there should be two unofficial members on it to be nominated by H.A. (in pursuance of the understanding arrived at when the original Lands Trust Bill was agreed to by unofficial members, one of these two should be the leader of the European unofficial members). There should as H.A. said in the interview be a gentleman's agreement on that point and it need not be embodied in the constitution.

(4) I would sooner that the above comprised the whole of the board but I can see that there are good arguments why the Commissioner for Local Government etc. should be on the board and therefore his objection to him.

(5) At the meeting with H.A. on the 17th of June I expressed my disagreement with the appointment of a C.A. to the board and gave my reasons which I thought at the time were accepted.

I am still strongly of opinion that a C.A. on the board is undesirable. He is the representative of Government in a Native reserve, he is to a considerable extent the spokesman for representations of the Natives; it is part of his duties to impress the views of Government on to the Natives and when necessary he is the instrument that has to enforce these views whether agreeable to the Natives or otherwise.

One of the functions of the Central Board may be to take up a stand against some government policy as regards native land and I cannot see that a C.A. is the right man to act as a judge in a case of that kind that might arise. You must therefore take me as being definitely opposed to the appointment of a C.A. to the Central Board.

If it is considered necessary to make the numbers of the board up to seven I consider that a third unofficial member should be nominated by H.A.

I do not see that there is much to be gained by coming to your office and discussing the matter, but I shall be in Nairobi on the 17th inst. and if you like I could call on you at noon that day.

Yrs. sincerely,
Sd/M.C.M. Mason.

I am sending a copy of this letter to Hemsted.

59/81

3, Lingfield Road,
Wimbledon Common.

25. 10. 34.

The Under Secretary of State,
The Colonial Office.

Sir,

I have the honour to invite attention to a discrepancy which I believe to exist between Paragraph 10 of the White Paper (Command 4580) and the recommendations of the Kenya Land Commission. I believe that the departure was unintentional and has escaped notice and that it is of sufficient significance to warrant me in writing this letter. I have already spoken of the matter to Mr Freeston who has advised this course.

Nov 6

Omit
in copy
of
12/11

2. The Section of the White Paper under reference is as follows:

"The Commission recommend that the boundaries of the Reserves and of the Class C lands (native leasehold areas), and of the Highlands, should be declared by Order in Council. This will give an added sense of security, in that these boundaries could not thereafter be altered by local Ordinance. His Majesty's Government approve of this recommendation and propose that in due course these boundaries should be declared by Order in Council."

copy to Kenya ()

Under the arrangement here contemplated it would be impossible for the Government of Kenya to make any exchange or adjustment or any addition to a native reserve, however trivial, without first seeking the cover of an Order in Council. The Commission did not contemplate so rigid a condition of affairs.

3. In respect of Class A lands they recommended that the boundaries of the nine main units into which they are divided should be defined and protected by Order in Council (Section 1793). As to the nature of this protection they recommend at section 1449 that if it should so happen that the tribe or tribes inhabiting one of the main units should be diminished while the tribe or tribes inhabiting a neighbouring unit should increase to such an extent that a transfer of territory from the one to the other appears advisable, the authority of an Order in Council would be necessary before such transfer could be effected. But they recommend that the Governor, with the approval of the legislative Council, should have the power to make additions for the purpose of exchanges or petty adjustments (Sec. 1741); that exclusions for the purpose of exchange may be made if the Local Native Council, the Local Land Board, the Lands Trust Board, the Governor and the Legislative Council all agree (Sec. 1475); that exclusions for public purposes may be made, subject to the advice and consent of the Lands Trust Board, in the circumstances and subject to the safeguards described at Secs. 1519, 1536 (a) and 1539; that the Land Acquisition Act may be applied in certain circumstances with the approval of the Secretary of State (Sec. ¹⁵²¹); and that power to do these things be provided under a reconstructed Lands Trust Ordinance (Secs. 1797, 1798).

4. It is clear therefore that the Commissioners contemplated that adjustments of the kind enumerated in the last sentence above should be possible under the Ordinance without recourse to an Order in Council, provided that the specified safeguards are laid down in the Ordinance and observed.

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4. It is clear therefore that the Commissioners contemplated that adjustments of the kind enumerated in the last sentence above should be possible under the Ordinance without recourse to an Order in Council, provided that the specified safeguards are laid down in the Ordinance and observed.

But in order to remove any fear that these safeguards might be withdrawn or impaired by subsequent local amendments of the Ordinance they recommended, at Sec. 1816, that the safeguarding clauses should be protected by Order in Council, so that they could not be amended without the authority of a further Order in Council.

5. The report does not specify that Class B.1. or B.2. land should be proclaimed by Order in Council but recommends, at Secs. 1459 and 1794, that they should be under the protection of the Lands Trust Board; that they should not be diminished or taken away without the consent of the Board excepting only that an appeal should lie to the Secretary of State who should be able if he considers that sufficient cause exists, to override the veto of the Board; and that these safeguards and this machinery should be protected by Order in Council. At Sec. 1741 it is recommended that subsequent additions of land for economic requirements should normally be by lease but that it should be also possible for the Governor, with the approval of the Legislative Council, to add land as Class B.1. without lease.

6. The reason for providing different safeguards for Class A. and for Class B. is clearly explained in Secs. 1452-1455, 2077 and 2123, where the Commissioners lay stress on the necessity of preserving a reasonable fluidity in the economic assets of the country.

7. In the case of Class C. lands the report recommends that the boundaries should be proclaimed by Order in Council and should not be diminished or extended without further Order in Council (Sec. 1469). The requisite fluidity has been

secured in another way, by providing for short term leases to non-natives in any part of the area not yet required by the natives (Sec.1930). It was considered that it would be a long time before any need would arise for altering the boundaries.

8. In respect of the European Highlands the report recommends, at Sec. 1979, that the boundaries should be secured by Order in Council and be protected by safeguards analogous to those provided for native lands. The intention clearly is that the safeguards should correspond to those provided for native lands Class A. (cf. s.1496).

9. It will be observed that the recommendations of the Commission as summarised in the foregoing paragraphs differ in a material degree from the sense of Para. 10 of the White Paper. If the new Ordinance is drafted in strict accordance with Para.10, new Orders in Council will have to be sought every time an exchange or petty adjustment is required, even if the area involved, as in the case of Miss Collier's land (vide Evidence p. 19), is only a few square yards.

10. It may be worth while to remark that Sec. 10 and the recommendations would almost have been reconciled if "Class A" had been inserted after "Reserves" in line 2 and "diminished" had been written instead of "altered", in line 5. There would then have remained only two small and unimportant discrepancies: (a) in the case of exchanges the Commission observes, at Sec. 1777, that equivalence is a more important consideration than exact equality of area, and therefore it might conceivably happen that an agreed exchange might result in a loss of land; (b) in cases in which the Land Acquisition Act is applied the Commission

5.

recommends that compensation need not necessarily be in land.

11. I hope I have not exceeded my duty in inviting attention to these points. I have done so because it seems possible that they may have escaped notice and may have some bearing on the drafting of the new Ordinance and of the Order in Council.

I have the honour to be,

Sir,

Your obedient servant,

S. H. [Signature]

C. O.

Mr. Flood: 13.10.34.

Mr.

Mr.

Mr. Parkinson.

Sir G. Tomlinson.

Sir C. Bottomley. 19.10

Sir J. Shuckburgh

+ Permt. U.S. of S. 19.10 /s

Parly. U.S. of S.

Secretary of State.

(Conson)

DRAFT.

A. A. V. WADE, ESQ., C.B.E.

SECRETARIAT,

KENYA.

23.34/34.

C. D.
R 20 OCT.
W

For Mr. Flood's signature

Downing Street.

22 October, 1934.

Dear Wade,

I should have written before

to congratulate you on your elevation

to the Colonial Secretaryship, but

I have been rather under the weather

and my right hand is still out of

action so I can't write, thank you,

the assistance of our shorthand staff

I manage to transact what passes for

a day's work. I am very pleased

that you have got the job and I hope

that you will have an easier time in

it than your predecessor, as you

probably will if things improve in

Kenya.

This is just to expand

a bit our telegram No. 243 of the

11th October on the subject of the

FURTHER ACTION

C. O.

Mr.

Mr.

Mr.

Mr. Parkinson.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

DRAFT.

expenditure of a reasonable amount
 and its being clear that the money
 account in anticipation of the
 provision of the funds, etc.
 hope this will set you more at ease,
 because there is really no cause for
 alarm lest the money should not be
 forthcoming, only until it has been
 voted, we can't say for sure that
 it is. ~~Until it has been voted, we~~
~~cannot say for sure that it will be~~
~~forthcoming and in any event, it would~~
 be wrong to make any public reference
 to it as a source from which money
 is actually being spent.

Yours sincerely,

(Signed) J. E. W. FLOOD

FURTHER ACTION

C. O.

23034/34.

Mr. Flood. 18 10:34.

Mr.

Mr.

Mr. Parkinson.

Sir G. Tomlinson.

† Sir C. Bottomley. 18.

Sir J. Shuckburgh

+ Perm. U.S. of S. 19 *Amel*

Parly. U.S. of S.

Secretary of State.

*Copy sent
5/19/10/34*

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R 2000
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Private and Personal

DRAFT. Telegram

GOVERNOR.

NAIROBI.

FURTHER ACTION.

Your telegram No. 225. Arrangements with Wundanyi had gone so far that I felt bound to let them go forward. I think you need not feel any doubt as to the provision of the £20,000 though as I have said it is possible that conditions may be attached when it comes before Parliament, though even this is not particularly probable. It would, however, be unwise to anticipate the payment to too great an extent though there is no objection to anticipation to a reasonable degree as in Wundanyi case. A suspense account can be opened by Crown Agents to cover advances pending actual voting of sum by Parliament and its transfer to Kenya Funds. It is important

that

that it should not be stated in public

that it is proposed to finance any

particular ~~sums~~ ^{project} out of the £50,000

until it is certain that the sum has

actually been voted.

COPY FOR REGISTRATION
RECEIVED

89 56

2380/34
23163/34
24051/34
FH

FC

Telegram from the Governor of Kenya to the Secretary of State for the Colonies.

Dated 15th October, 1934. Received 11.57.a.m. 15th October.

No. 225.

No 55 Your telegram of 11th October No. 243 I appreciate that grant cannot be assumed until voted by Parliament, but I should prefer not to commit the Government to any definite expenditure until grant has been made and conditions attached thereto are known. In my opinion there is no pressing urgency for implementing the report and delay of 6 months will not cause this Government serious inconvenience. I propose therefore not to open suspense account as suggested and to conduct all required negotiations on the understanding that final conclusion is subject to payment of grant. Accordingly I shall be glad if you will inform Wundanyi Limited that further negotiations must be deferred for the time being.

copy sent on 23/10/34

Reference (b) of your telegram I am advised that amount of grant will be barely sufficient to cover cost of giving effect direct recommendation in section 2041, which I/strongly of opinion should have first call on grant, and that it will therefore quite impossible to defray the cost of recommendations in sections 2046 and 2047 from this service.

I am transmitting by air mail this week application to Colonial Development Fund for grant of £23,000 for Fertiliser Factory and unless a grant can be made from the fund I shall most reluctantly have to abandon project until financial position of the Colony improves.

copy sent on 23/10/34

*Coby draft on 24051/34*55

TELEGRAM from the Secretary of State for the Colonies to the Governor of Kenya.

(Sent 12.30 p.m., 11th October, 1934.)

No. 243.

Your telegram 4th October No. 219. Grant cannot be issued without authority of Parliament, which it is proposed to seek in February next. The money will probably not be available until the end of March, and as financial year will then be coming to a close, it is probable that it will be issued as lump sum. But I cannot predict what conditions, if any, will be attached to the payment by Parliament if money is voted, and until that is known it would be inadvisable to assume that money will be paid as lump sum without conditions.

Meanwhile, expenditure arising from Land Commission Report may be charged to a suspense account, but you will no doubt bear in mind (a) that it cannot be assumed that the money will be voted (b) that grant is intended as Imperial contribution towards expenditure contemplated in paragraphs 2046 and 2047 of Report, as well as that in paragraph 2041; (c) it may possibly be contended that all benefit from the grant should accrue primarily to those tribes on whose behalf claims were put forward for carriers' arrears. If condition to that effect were attached to payment then it would be necessary to consider carefully whether any, and, if so, how much, could be made available for purposes mentioned in your telegram.