

1935

Kenya

No. 38005/3A.

(Secret)

SUBJECT

C0533/453

Land Commission Report.

The White Highlands.

Position of Indians & Natives.

Previous

38005/3.

Subsequent

380057/3/35

2

The ^{unrevised} draft memo for circulation to the Cabinet has been prepared in directions from S of S.

Attwater
7/10

It is necessary to be concise and I think the draft will serve its purpose. Each point could be elaborated. I could argue that the Kenya Govt. has done so much for the European settler that it has left itself crippled and has no resources from which it could do more. Lord Moyne made it clear that the settlers were very lightly taxed and in the increasing depression the farmers would pay less & less.

A lot of the expense of Kenya is due to the demands of the settlers themselves! E.g. agriculture in Kenya costs Govt. £128,000 a year 33 1/3% more than Nigeria with a bigger area six times the population and about ten times the trade. And most of the work of the Agricultural Dept. is to help the European.

Kenya's industries (milling, dairy farming, bacon, sugar, tea) are heavily protected, again in the interest of the European.

Railway rates are designed to benefit the exporter as against the importer.

And so on almost ~~ad nauseam~~ ad nauseam.

St Paul said to the Galatians "Am I therefore your enemy because I tell you the truth?" and a lot of things in Kenya remind me of this. If the "political settler" is told that he is the salt of the earth all is well, but if it is hinted that he is not a superior creature but an ordinary man and that Govt. cannot help him because he is a Kenya settler then accusations of "lack of tact" "indifference" and so on, fly through the air inevitable perhaps but there it is.

I think the draft goes ^{is it?} sufficiently far in the 7.10. direction

indicated by Mr. Flood. It is
and I care for the settlers we
should make much the same sort
of noise.

The strong words of para. 6
were too general & I have qualified
them. There are a lot of hardworking
practical men there who have
no responsibility whatever for
their own misfortunes. There
are of course others.
W.C.S.

7.10.35

M

8/2

Had I been taking this to the Cabinet I would have
~~revised~~ made amendments to the draft so as to

- (1) bring out more strongly the objection from
the Indian point of view to a Statutory
provision regarding access to the "European
Highlands" and record my talk with Lord
Zetland
- (2) suggest that I was seeking the Cabinet's
approval of my advice on the matter, before
taking a final decision, rather than asking
for their confirmation of a decision.

But in view of the impending General Election I think it
unfair to proceed with this, in case the result of the
Election is a new S of S. It would be unfair for me
to bind his hands, although my own conviction on the
matter is strong. I have agreed with Byrne and Pim
that the Order in Council need not be made public until
January or February. In the meantime the Dept.
should proceed on the assumption that the decision
that we have already reached amongst ourselves
will be approved by Cabinet after the Election.
Please bring up this draft C.P. again shortly after
the Election.
M.M. 20.10.35

Mr Boyd

2
2

3
Herewith the memo typed out. There is an
inaccuracy unfortunately in page 9 which has been
set right by Mr. Houston in the flying copy marked Q (not in
the others)

The Carter Commission did not recommend that the
proposed O in C. should give sanction to the non-alienation of
land in the White Highlands to Indians etc. All that was
to say that the boundaries should be prescribed & made final
and the rest has been read into it by the settlers. The language
of the Report is not as clear as might be wished but it's clear enough

110.769
25.11

I am much obliged for the correction. One of the things
which I never had time to read fully myself was the Morris
Carter Report! My memory of reports about the Report
playd me false.

M.M.
26.11.35

Mr. Marsh.

Mr. MacDonald went through the draft with
Mr. Flood and me this afternoon and I have inserted
a section on page 9 as agreed with him. No other
alterations have been made except on very minor
points.

As regards the bottom of page 5 we have
heard privately from the Treasury that they will
agree to £250,000 for the Land Bank. We shall have
to put this to the Governor, but for the moment the
passage as typed is correct.

Page 11 (last sub-paragraph of paragraph
5). It is essential that this should not get out
to India or to Kenya. Mr. MacDonald contemplated,
I understood, that the paper should go to

Lord Zetland

1/10/35

A
Lord Zetland in draft, but it would be necessary to impress on him that he must regard this passage as absolutely personal to himself. Alternatively, the paragraph might be struck out and the ^{position} resolution might be explained orally by Mr. Thomas to the Cabinet.

I do not know whether Mr. MacDonald wishes to see the draft again before it goes to Mr. Thomas. Subject to that will you please pass it to Sir John Maffey.

W.C.S.

27.11.35.

I have spoken to Mr. MacDonald who does not wish to see the draft again at this stage.

J.J.G.

28.11.35.

The draft memorandum can be sent to the S. of S.

The point at A above needs further consideration. The decision seems to be that the reaction in the latter mind but it would seem to be prudent to deal with this more fully.

J.M.
29/11

3
After the discussion of Kenya matters yesterday I asked the S. of S. for his instructions regarding the Draft Colonial Paper. He said he would like to have another look at it. In the meantime I have arranged for the S. of S. to be sent off a few proof copies. I have left in the margin the passage referred to as "A", but will draw Mr. Thomas's attention to it in due course and mention the alternative referred to in the minutes.

In the meantime, have you any comments, please, or further amendments to suggest, as regards the draft?

Ed. Hoyle

12/12/35

✓ It doesn't help the settlers much - His explanation was good.

Sir C. Bottomley

Para 2. Things are now looking up. Sisal has doubled in price and the exports of maize which it has gone well up in quantity. But no need to alter the memo though the S. of S. may like to put the welcome part.

Para 6. Point A. Treasury will agree to £250,000 for the Land Bank

✓ W.C.S.
? Substitute for the words underlined "further substantial assistance"

Para 6(d) point B. "There is reason to believe I don't know where Mr. MacDonald got this from. If it got out the settlers would all howl that closer down was the thing nearest their hearts. In fact whatever they really think the Kenya settlers & a few of the S. of S. ones raised the complaint at Unruh. So long as immediate is stressed it is perhaps all right but I think it would read better as "the settlers even in Kenya do not regard"

Para 7 point C. I would omit this sentence. I have corrected the numbering.

W.C.S.
P.T.P.

S. J. W. H. 4/12

5
Sir J. Kebley.

On Mr. Wood's point on 6(a) -
the information came from
a private letter - I think from
Lord Francis Scott. If there is
any chance of "immediate"
being read in any other way
than that it is not the best
urgent matter, I agree that it
is better amended.

Lord Plymouth has drawn
my attention to para: 3
which he considers makes
too much of the "class" minority.
I suggest the following addition:-

"At the same time, there is
few too
no doubt that there are many
cases of real hardship and
actual want, and it is not
surprising that they have
accentuated the political
situation."

W.G.S.
4.12.25

I spoke with Lord Plymouth in relation to
the inclusion of para 3. (It is not
- just, my idea since it starts with
"The Kenya section, with some pertinent exceptions,
has done its ^{very} best to distinguish between a
"desert & real minority").

I suggest recasting the last para
sentence of § 3 somewhat as follows,
embracing Sir C. Atkinson's addition:-

"A very local minority also unfortunately
have the support of the local press have
been very active in agitation -
in order means of publicity has thereby
been given to extreme views. At the
same time there is no doubt that
there are many cases of real hardship
among the settlers & it is not
natural that their grievances should
be laid at the door of the Government."

W.G.S.
4/12/25

Secretary of State.

Memorandum for the Cabinet on
Kenya Affairs.

4

1. The draft has now been revised and is submitted for your approval.

2. Mr. Malcolm Macdonald promised Lord Zetland when he saw him that he would let the S. G. for India see the memorandum in draft form.

Hence the draft letter for your signature to Lord Zetland which I attach immediately herewith.

The most important point in the proposed omission from the Cabinet Paper of the reference to the St. James Convention. This is embodied in the last paragraph of the letter to Lord Zetland.

3. If you agree with 1. & 2. above, I would arrange for the draft to be reprinted so that a clean copy could accompany your letter to Lord Zetland.

E. Lloyd

7/14/35

Mr. Flood

S. G. agreed; and the letter to the S. G. for India is being despatched.

I had further proofs printed off & enclosed one in the bundle from herewith the copy with the S. G.'s letter.

Some papers might need be reviewed - finding further developments.

E. Lloyd

9/14/35

Done

5

On Friday afternoon I went to the India Office to discuss various points arising out of the Cabinet Paper on Kenya. It appeared that there was no chance of getting the Paper before the Cabinet next Wednesday unless India Office doubts can be resolved.

1. Sir Findlater Stewart asked as to the nature of the Highlands Order in Council. Would it be merely defining a line or would it refer to the "privileged position" mentioned in the terms of reference to the Carter Commission. I said it would simply define a line and that no reference to the Carter Commission report was necessary or was intended.

2. I was asked if there would be a debate in the House of Commons. I said that the matter could of course be raised on special Motion or on the Colonial Office Vote but that the Order, as a prerogative Order, would not be submitted to the House.

3. As regards the Convention of St. Germain, Sir Findlater Stewart asked what the position was with regard to the natives, who were British nationals under the terms of the Convention. I said that so long as the natives had their reserves and were safeguarded in them, I saw no practical difficulty, either as regards Japanese etc., making a claim under the Convention for land in the reserves, or as regards natives making a claim for land in the Highlands. The institution of reserve land for the natives was fundamental in Kenya and the fact that they had land

certain of my ground and, in particular, as to whether the Indian farms are actually surrounded by European farms.

7.

See now my letter to Sir Findlater Stewart
of to-day - copy attached.

W.C.S. 16.12.35

Mr Boyd.

The S. of S. may want to discuss this before Wednesday if the matter is actually to go before the Cabinet then.

You will no doubt have an opportunity of letting Sir J. Maffey see it first.

W.C.S.
16.12.35

As the India Office could not promise an answer by the end of last week it was not possible to include one page to the Cabinet, as I told Mr Thomas that it would not be on the Cabinet Agenda Paper for last Wednesday. I now attach copy of

8.

Lord Zealand's letter of 20th December just received. I am sending the original to the Secretary of State, so that he may read it over the weekend. It is likely, I think, that Mr Mayhew will be discussing the next steps with the Department on Monday, 23rd December, but

There may be no further meeting of
the Council (for regular business)
until the second or third week in January.

Edith Boyd
20/1/45

Please attend the original letter from
Lord Zetland. In Thomas has read it and
wants like the Staff to consider Lord
Zetland's point in the last paragraph and
advise him or it in due course. Meanwhile
the paper for the Council will have to be
held off until January.

Edith Boyd
23/1/45

Lord Zetland, now recognizing that to
embody discrimination against Indians in a
legislative enactment would be contrary to the
St. Germain Convention, wants to go further and
argue that the existing administrative
discrimination against Indians is equally a
violation of the Convention. Here, I think, he
goes too far. It is true that the Convention
of St. Germain was signed for India but I do
not think that that fact gives India any right to
argue that it has a case to put forward as against
H.M.G. in respect of anything done by H.M.G. for
or against the Convention. The operative
section of the Convention is Article 3 which
runs that "In the territory specified and
placed under the authority of one of the
signatory powers the nationals of those powers
or of States members of the League of Nations
which may adhere to the present Convention shall
..... enjoy without distinction the same
treatment and the same rights as the nationals

of the power exercising authority in the territory
with regard to the protection of their persons and
effects with regard to the acquisition and transmission
of their movable and real property and with regard to
the exercise of their professions".

In the White Paper of 1923 the previous
history was set out at some length. It was pointed
out that the principle of reserving the Highlands for
Europeans was first laid down in 1906 and confirmed
in 1908 by Lord Elgin in the famous terms that, while
it was not consonant with the views of H.M.G. to
impose any legal restrictions on any section of the
community, grants in the upland area should not, as
a matter of administrative convenience, be made to
Asiatics. In the White Paper it was definitely
said that "H.M.G. have decided that the existing
practice must be maintained as regards initial grants
and transfers".

Now this is simply an administrative
practice. The Kenya Govt. is not bound to give away
grants of land to anybody who comes along. It has
a perfect right to exercise discrimination as to the
class of persons to whom it will give grants of land
and so long as there is no legal bar it is I maintain
within the letter of all its treaty obligations. It
could not be argued, for example, that the Kenya
Govt. was bound to give a farm to a criminal or to a
carrier of disease who was known to be such and I
think it can equally be argued that the Kenya Govt. is
not bound to allow land to be granted to Indians.

The position was set forth in the 1923
White Paper and in the conversation between

Sir Philip

The Secretary, who discussed this with the Com. thoroughly today & thought that the best course would be to write to Lord Zetland on the lines of the draft attached.

Ed Hoyle
6/1/36

9. In Thomas to Lord Zetland - 7th January, 1936.

Mr Flood,
As regards my original draft Colonial paper, the only changes necessary are I think, (1) the date of the paper, which should now be January '36 and (2) the words "until early next year" - in sixth last line of the paper. What would you suggest in place of this?

Ed Hoyle
7/1/36

Kenya is still selling on the "Budget" so I would simply delete the words "early next year", when.

S. S. Hunt
7.1.

I have altered the proof accordingly: these papers may now await a reply from the S. S. for India - unless it might as well be sent Ed Hoyle about the second Colonial paper on the S. S. Commission issue?

Drafting

7/1/36

Mr Flood, (has seen)

Memorandum for the Cabinet on Kenya.

Sir P. & Mr. Stewart's P.S. telephoned today to say that (1) P.O. have no objection to the circulation of the Colonial note of my proposed principal memorandum, provided the paper is not placed on the Colonial paper for next week. (2) P.O. agree to the proposal suggested in Mr S. S.'s latest letter to Lord Zetland viz that each Dept. should circulate further memoranda on the S. S. Commission Commission.

Lord Zetland has gone abroad for a short time.

As regards (1) I will arrange for the paper to be reviewed from a technical point of view & circulated to the Cabinet, if you will please leave the file.

(2) Whether the Dept. will ever be got cleared with the Drafting office is a matter for consideration!

Ed Hoyle

7.1.36

Ed Hoyle

- (1) Receipt
- (2) Pl. return the file to Dept for this. But we can't go far with it until we have the form of the document as we otherwise

DESTROYED UNDER STATUTE
11. Lord Callaghan
DESTROYED UNDER STATUTE
12. CP. 7 (36)

10. L. D. Ingleton, Kenyan S. S. 6/1/36
11. L. D. Ingleton, Kenyan S. S. 7 Jan 36
12. L. D. Ingleton, Kenyan S. S. 10 Jan 36
13. L. D. Ingleton, Kenyan S. S. 16 Jan 36
14. L. D. Ingleton, Kenyan S. S. 16 Jan 36

(11). As Lord Zetland is not due to return until the 26th January, it will not be possible to place CP. 7 (36) on the

Cabinet copies taken from a meeting
held on the 24th of Wednesday, the
29th of January.

This will give an ample
basis to draw up the further memorandum
on the St. Germain Convention issue.
It is necessary for the Dept. to be first
of all that has the India Office
has to be taken into paper, I would
suggest that they should get into touch
with Mr. R. T. Keel, who is head of the
I.O. Dept. who will have to draft their
memorandum.

(12). CP. 7 (36) Nos 1-56 have
gone to the India Office; Nos. 57-58 are
with me; No 56 is on the file; & Nos.
57-60 are attached herewith forwarded to
the Dept.

Edmond
13/1/36

27.1.36.

13

30 (10)

(Trs. of mem. to Cabinet).

From the CO point of view the of
practical importance is whether the
Govt. of India are to have their
attention drawn to the fact that it
is recognized that the policy of the
remigration of the Highlanders for white
settlement involves an infringement
of article 3 of the ~~Convention~~ ^{Convention of St. Germain} of St. Germain.
It is ~~important~~ ^{important} that the I.O.
have thought it necessary to make
their intention in a form which
alleges that the Convention constitutes

a contractual obligation between the U.K. &
& India - a contention which is entirely
to the view held by Mr. G. as to the
inter-imperial applicability of international
conventions, a view to which the D.O. attaches
considerable importance.
It is better of course to
avoid the necessity of going ahead of
the Govt. having to be discussed by
the Cabinet, & to have Mr. Stephenson
& I have prepared a S.O. of the
to the I.O.

J.P. Pascoe
29/1/36

14 To R. T. Keel I.O.

John 36

15 ~~to~~ ^{to} ~~Zetland~~

30-1-36.

(Trs. of mem. to Cabinet)

DESTROYED UNDER STATUTE

Lord Zetland's memorandum was discussed
with Sir C. Bottomley, Sir G. Bushe and Mr. Stephenson
of the D.O. The point appears to be that the India
Office have slightly misunderstood the effect of
Mr. Thomas's letter of the 9th of December (No. 6).
In that letter he said that he had contemplated
adding a sentence

"Apart from this such a statutory
provision could only be effected at the
expense of violating the Convention of
St. Germain and other international
obligations."

The India Office have assumed that what
was in our minds was that discrimination against
Indians would violate the Convention. Any idea

of that kind, however, would be contrary to the well established principle that these Conventions have no force as between different parts of the British Empire and what we had in mind was that any statutory restriction of the highlands to Europeans would be a violation of the Convention as against the Japanese who are also parties to it and it would be quite certain that the Japanese would proceed to move.

I may perhaps point out that the statement that India adhered to the Convention as a member of the League of Nations is hardly correct. India was represented among the people who negotiated it, and the benefits that India may expect are access to the various foreign territories involved in the areas, but it does not give India any claim as against H.M.G. or other Dominions. Draft herewith which has been prepared by Mr. Paskin.

J.L.G. Kent

1.2.36.

I have made one alteration. The reason for the renunciation of the highlands has from the first been that the Europeans cannot reside elsewhere & that the Indians can. I do not think that we should be in a hurry to abandon that position.

W.L.S. 1.2.36.

S.P.S.

Draft reply to Lord Zetland submitted for your approval

V.R.

3/12/36

16. C.P. 18(36).

The S.O. memo. has now been issued to the Cabinet, in the terms of the proposal enclosed - No. 15. I have spoken to Mr. Bond who thinks that, as the matter is not to come before the Cabinet until the 12th of Feb., there is just a possibility that the S.P.S. for India might be persuaded to substitute a second version, with the slight alteration which we desire.

The 2nd draft has been amended accordingly. If it is agreed to try this one, the pp. shd. be returned to J.P. Paskin, from whom I recovered them.

J.P. Paskin
4/2/36.

1.0. might have waited but I suppose it's my fault for not telling them that this might be convenient.

The draft letter has now been modified a bit to suit the altered circumstances and is receipted & re-submitted.

W.L.S.

* We find the word construction in 4th line that ambiguous phrase "reference to" in Lord Zetland's letter.

W.L.S. 4.2

P 5/1/36

M 4/2/36

17. Mr. Thomas to Lord Zetland - 6th Feb '36
18. Lord Zetland to Mr. Thomas - 7th Feb '36
Sir C. Bottomley

19. I now submit the draft of a rejoinder to Lord Zetland. Mr. Perkins & I think it can be kept fairly brief and yet answer, so we have kept it short.

V.S.W. Kind
7.2.

Sir J. Gluckstein

19A I prepared an alternative draft memo: which Mr. Flood and Mr. Perkins have been good enough to prefer to their own. I leave you to judge. Mr. Flood has also drafted a reply to no. 17.

V.S.W.
7.2.

I also prefer Sir C. Bottomley's draft memo.

Ord. 10/4/36

Approved by S. V. S.

Ed. Lloyd
11/4/36

20. Mr. Thomas to Lord Zetland = 11 Feb '36

21. Lord Zetland to Mr. Thomas = 13 Feb '36

DESTROYED UNDER STATUTE

22. Proof of C.O. Paper - C.P. 43(36) - 14 Feb '36

Mr. Payne

Please see (20) & (22)

Mr. Thomas saw (20) yesterday evening & I then arranged with Mr. Cope (P.O.) that we should fix on Wednesday, 19th February, as the day for the discussion of the three papers ~~C.P. 17, 18, & 43~~ C.P. 7, 18, and 43.

(21) is a proof you had better have you please have it "vetted" in Sept & return some by mid-day, so that I can arrange to have the prints on the day for circulation from the Chief Officer this evening.

The Public Office are getting ahead with the printing of their version of C.P. 18(36)

Ed. Lloyd
14/4/36

Mr. Jones

I have read through the proof. It is in order. You will see that Mr. Bond has agreed to have done it. Done by mid-day

J.P. Parker
14/2

23. C.P. 43(36) Date 13th Feb '36
J. V. S.'s recommendation

C.P. 7, 18, & 43 will be on the Agenda Paper for the Cabinet meeting on Wednesday, 19th

I would advise 56 to be taken out 57-60 for insertion in Sept. I will advise a duplicate of the

minutes of the P.O. Paper - C.P. 18(36) sent
Ed. Lloyd
14/4/36

DESTROYED UNDER STATUTE

25

Extract from minute of Cabinet held
19th Feb 36 (Col 8 (36)).

26

See now the attached copy of a
letter from Lord Zetland asking us to hold up
publication of the Order-in-Council. Mr. Boyd
tells me that the Secretary of State naturally
readily agrees to accept Lord Zetland's request
but I have only now learnt that the Department
has been supposed to draft the letter in reply.
Draft herewith.

(J. F.)

5.3.36.

Capt. Schwelge, calling on
Lord Plymouth this morning,
urged that the Order should be
issued as soon as possible but
I don't think it will be possible
before the end of April.

W.F.D.
5.3.36.

(Please ask Lord Zetland to supply stamp)

To Lord Zetland (No. 26 and) 4/3/36
EXTRACTED UNDER STATUTE

100 [Handwritten signature]

15

28

Croft (INDIA OFFICE).....s/o.....15th. June 1936
Assumes that the Viceroy of India may be assured that
the Order-in-Council will be confined to the geograph-
ical delimitation of the Highlands.

DESTROYED UNDER STATUTE

29

To Croft.....s/o.....²⁵ and,----- 17.6.36.

[Handwritten mark]

C. O.

Mr. *Koyd 6/14/36*
Mr. *Flood 16/36*

- Sir C. Parkinson.
- Sir G. Tomlinson.
- Sir C. Bottomley.
- Sir J. Stuchburgh
- Permt. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

H 17 JUN
D

C. H. P. S.

17 June, 1936.

Dear Genl.

Thank you for your letter of the 15th of June. I had already mentioned to her.

Presumably you the telegram which your Secretary shall have received from her has been let you well regard to the reports in India ^{as to} ~~concerning~~ the proposed Order in Council in respect of the Kange High lands.

Certainly you may let the Viceroy know that there will be no departure from the settlement of a few months ago that the Order in Council will be confined to a geographical delimitation of the High lands. And since we intend to let the India Office see the draft of the Order before it is issued.

Yours sincerely
[Signature]

DRAFT.

W. B. Craft,
Secy. C. I. S.

FURTHER ACTION.

INDIA OFFICE,

26th February, 1936.

My dear Secretary of State,

Since the Cabinet last week in which we discussed the question of the Kenya Highlands, I have had another letter from Willingdon in which he refers to the subject. He says that if we have to issue an Order defining the Highlands (as of course we have now decided to do) he hopes that we may be able to defer its publication until after the present session of the Indian Legislative Assembly which comes to an end in April. As you know, he is apprehensive of the effects of such an Order in India even though it is confined to the definition of the Highlands and he is decidedly nervous as to what would happen in regard to various important matters which are up before the Assembly, including, for example, the future of the Ottawa Agreement. The situation is far from being easy as it is, and it is important to avoid any deterioration of the atmosphere if we possibly can. We shall, I know, be consulted upon the terms of the Order before it is issued and

and if you can arrange that its final publication
is held back until the latter part of April I shall
indeed be grateful.

Yours sincerely,

(SGD) ZETLAND.

R

Edroyd

SECRET.

C A B I N E T S (36)

EXTRACT from Conclusions of a Meeting held on Wednesday,
the 19th February, 1936.

AFFAIRS IN
KENYA.

6. The Cabinet had before them the following

Papers:-

The Highlands
Question.

C.P.7(36)
C.P.18(36) and
C.P.43(36).

(Previous
Reference:
Cabinet 20(54)
Conclusion 5).

In the course of a discuss on the Secretary of State
for India gave an exposition of the difficulties of the
Government of India in the course of which he suggested
that:

- (1) the Cabinet should agree that there is a moral obligation to admit Indians to the Highlands as soon as any other Asiatics are admitted - though no public statement should be made on the subject,
- and
- (2) that he should not be debarred from telling the Viceroy that he had considered whether the Convention had any bearing on the question; but that he had come to the conclusion that so long as there was no discrimination in fact between Indians and other Asiatics it did not affect the proposal merely to schedule the Kenya Highlands without embodying in the Order any statutory prescription of privileges.

After considerable discussion the Cabinet agreed:-

- (a) That the Secretary of State for the Colonies should be authorised to prepare an Order-in-Council defining the boundaries of the Kenya Highlands area:
- (b) That if Japan should claim the right to purchase land in the Kenya Highlands the question would have to be considered by the Cabinet.

Printed for the Cabinet. February 1936.

SECRET.

Copy No. 56

C.P. 43 (36).

R
CABINET.**KENYA: RESERVATION OF THE HIGHLANDS QUESTION.***Memorandum by the Secretary of State for the Colonies.*

I AM anxious that the question of the reservation of the Kenya Highlands to Europeans should not occupy too much of the time available at the meeting of the Cabinet to the exclusion of other Kenya problems, and I have therefore thought it desirable, before the Cabinet consider my former memorandum, to make some reply to the memorandum which has been put in by the Secretary of State for India.

The reservation has been a matter of administrative practice for nearly 30 years. The area concerned has always been vague and the Kenya Land Commission were instructed to advise as to the definition of its boundaries. In doing so they expressed themselves in terms which might be taken to imply that they considered that the Order-in-Council defining the boundaries should also expressly assert the nature of the reservation. Their report has been interpreted in this sense by the European settlers, who have built on it an elaborate structure indicating the lines on which they propose that the reservation should be safeguarded. The Indians have protested against any such interpretation of the report. In the White Paper of 1934, accepting the report of the Commission as a whole, His Majesty's Government said—

"9. The Commission have defined the boundaries of the European Highlands and His Majesty's Government propose to accept their recommendations in regard to this."

My proposal is that the Order-in-Council should merely define the boundaries of the Highlands without any reference to the reservation or the "privileged position" of Europeans. In this way we shall be taking away neither from the Europeans nor from the Indians anything which they have hitherto had.

As regards the Convention of 1919, I do not think that it can seriously be maintained that the Indians have any rights against Kenya or His Majesty's Government as parties to the Convention. The advantage which they gain from the Convention is the same as that which the United Kingdom or Australia gain, namely, that of free access for their trade to the non-British parts of the Conventional Basin of the Congo. The Convention does not give one part of the Empire any rights against another part.

It is clear further that the Indians cannot assert any moral claim under the Convention until some other non-European State, party to the Convention, has claimed a right of access to the Highlands. Japan is specially in point. It has not yet made such a claim and there is no present reason to suppose that it will do so, provided that we do not bring the matter into the forefront by giving a statutory status to the reservation of the Highlands. In the circumstances I venture to think that this question of the position of Indians is not one which we need now consider. If the case should arise, that is to say, if a claim under the Convention were to be made by Japan and if it were found that we could not resist it, the question of our attitude towards any consequent demand from

Indians, not on the ground of their position under the Convention, but on the ground of equal treatment as between Asiatics, would have to be considered, but no charge of bad faith could then be brought against us in respect of any action which we may take at the present time.

I hope that in the light of this explanation the Secretary of State for India will not feel that he is compelled to take the Government of India into confidence over this matter. I should, I am afraid, have little hope that the information would not percolate to Kenya, and I do not wish the difficulty which I shall certainly have in reconciling European opinion there to a mere definition of the Highlands area to be exacerbated by wrongly conceived discussions as to the validity as against Indians of the reservation of the Highlands as an administrative practice.

(Initialled)

J. H. T.

*Colonial Office, Downing Street,
February 13, 1936.*

(Printed for the House of Commons: 2d 1966)

CABINET.

City No. 22

Secret
C.P. 43 (36)

Kenya: Reservation of the Highlands
Draft of a Further Colonial Office Memorandum
for the Cabinet.

Memorandum by the Secretary of State for the Colonies.

I am anxious that the question of the reservation of the Kenya Highlands to Europeans should not occupy too much of the time available at the meeting of the Cabinet to the exclusion of other Kenya problems, and I have therefore thought it desirable, before the Cabinet consider my former memorandum, to make some reply to the memorandum which has been put in by the Secretary of State for India.

The reservation has been a matter of administrative practice for nearly 50 years. The area concerned has always been vague and the Kenya Land Commission were instructed to advise as to the definition of its boundaries. In doing so they expressed themselves in terms which might be taken to imply that they considered that the Order-in-Council defining the boundaries should also expressly assert the nature of the reservation. Their report has been interpreted in this sense by the European settlers, who have built on it an elaborate structure indicating the lines on which they propose that the reservation should be safeguarded. The Indians have protested against any such interpretation of the report. In the White Paper of 1954, accepting the report of the Commission as a whole, His Majesty's Government said:-

"9. The Commission have defined the boundaries of the European Highlands and H.M.G. propose to accept their recommendations in regard to this."

My proposal is that the Order-in-Council should merely define the boundaries of the Highlands without any reference to the reservation or the "privileged position" of Europeans. In this way we shall be taking away neither from the Europeans nor from the Indians anything which they have hitherto had.

John

As regards the Convention of 1919 I do not think that it can seriously be maintained that the Indians have any rights against Kenya or His Majesty's Government as parties to the Convention. The advantage which they gain from the Convention is the same as that which the United Kingdom or Australia gain, namely, that of free access for their trade to the non-British parts of the Conventional Basin of the Congo. The Convention does not give one part of the Empire any rights against another part.

It is clear further that the Indians cannot assert any moral claim under the Convention until some other non-European state, party to the Convention, has claimed a right of access to the Highlands. Japan is specially in point. It has not yet made such a claim and there is no present reason to suppose that it will do so, provided that we do not bring the matter into the forefront by giving a statutory status to the reservation of the Highlands. In the circumstances I venture to think that this question of the position of Indians is not one which we need now consider. If the case should arise, that is to say if a claim under the Convention were to be made by Japan and if it were found that we could not resist it, the question of our attitude towards any consequent demand from Indians, not on the ground of their position under the Convention but on the ground of equal treatment as between Asiatics, would have to be considered but no charge of bad faith could then be brought against us in respect of any action which we may take at the present time.

I hope that in the light of this explanation the Secretary of State for India will not feel that he is compelled to take the Government of India into confidence

over

13

over this matter. I should, I am afraid, have little hope that the information would not percolate to Kenya, and I do not wish the difficulty which I shall certainly have in reconciling European opinion there to a mere definition of the Highlands area to be exacerbated by wrongly conceived dimensions as to the validity as against Indians of the reservation of the Highlands as an administrative practice.

(initials) J. H. T.

COLONIAL OFFICE,
DOWNING STREET,
13th February, 1956.

For Secretary of State's signature.

C. O.

Mr. Flood. 10/2

Mr.

Mr.

Sir C. Parkinson.

Sir G. Tomlinson.

Sir C. Bottomley. 10.2.

→ Sir J. Stuckburgh 10/2/36

Permt. U.S. of S.

Parly. U.S. of S.

Approved by
Secretary of State. 11/2/36
W.S.F.

DRAFT.

THE MOST HONOURABLE THE MARQUESS
OF ZETLAND, ~~...~~, G.C.S.I., G.C.I.E.

C.O. Draft
revised 11/2/36

DOWNING STREET.

11 February, 1936.

My dear Secretary of State,

Thank you very much for your note of the 7th February, forwarding what you would propose as a revised version of your memorandum about Kenya. The revised version comes fairly near what I should like and I suppose it is impossible that we should ever agree on this question. I may say, however, that there is no question whatever, and never has been, of having any statutory discrimination against Indians or against anyone else, and what I propose to do is, I think, the minimum which will do justice to the views of our own people in Kenya and will fulfil the very definite undertakings given by His Majesty's Government. In the circumstances I am bound to put in a further memorandum and I enclose a draft of

FURTHER ACTION.

of it for your consideration. If you
won't mind letting me know what you think
about it we can then agree on a day to
have them discussed.

Yours sincerely,

(Signed) J. H. THOMAS

WCS 10/2
S. P. [unclear] 10/2/24
S.P. 11/2

I am anxious that the question of the reservation of the Kenya Highlands to Europeans should not occupy too much of the time ^{available at} of the Cabinet ^{to the meeting of the Cabinet} to the exclusion of other Kenya problems, and I have therefore thought it desirable, before the Cabinet considered my former memorandum, to make some reply to the memorandum which has been put in by the Secretary of State for India.

The reservation has been a matter of administrative practice for nearly 30 years. The area concerned has always been vague and the Kenya Land Commission were instructed to advise as to the definition of its boundaries. In doing so they expressed themselves in terms which might be taken to imply that they considered that the Order-in-Council defining the boundaries should also expressly assert the nature of the reservation. Their report has been interpreted in this sense by the European settlers, who have built on it an elaborate structure indicating the lines on which they propose that the reservation should be safeguarded.

The Indians have protested against any such interpretation of the report, and in the White Paper of 1934, accepting the report of the Commission as a whole, His Majesty's Government said:-

"9. The Commission have defined the boundaries of the European Highlands and H.M.C. propose to accept their recommendations in regard to this".

My proposal is that the Order-in-Council should merely define the boundaries of the Highlands

without any reference to the reservation or the privileged position of Europeans. In this way we shall be taking away neither from the Europeans nor from the Indians anything which they have hitherto had.

As regards the Convention of 1919 I do not think that it can seriously be maintained that the Indians have any rights against Kenya or His Majesty's Government as parties to the Convention. The advantage which they gain from the Convention is the same as that which the U.K. or Australia gain, namely, that of free access for their trade to the non-British parts of the Conventional Basin of the Congo. The Convention does not give one part of the Empire any rights against another part.

It is clear further that the Indians cannot assert any moral claim under the Convention until some other non-European state, party to the Convention, has claimed a right of access to the Highlands. ^{is officially in the past. It} Japan has not yet made such a claim and there is no present reason to suppose that it will do so, provided that we do not bring the matter into the forefront by giving a statutory status to the reservation of the Highlands. In the circumstances I venture to think that this question of the position of Indians is not one which we need ^{now} consider. If the case should arise, that is to say if a claim under the Convention were to be made by Japan and if it were found that we could not resist it, the question of our attitude towards

any consequent demand from Indians, not on the ground of their position under the Convention but on the ground of equal treatment as between Asiatics, would ~~then~~ have to be considered but no charge of bad faith could ^{then} be brought against us in respect of any action which we may take at the present time.

I hope that in the light of this explanation the Secretary of State for India will not feel that he is compelled to take the Government of India into confidence over this matter. I should, I am afraid, have little ^{hope} confidence that ~~the~~ information would not percolate to ~~Indians in~~ Kenya, and I do not wish the difficulty which I shall certainly have in reconciling European opinion there to a mere definition of the Highlands area to be exacerbated by wrongly conceived discussions as to the validity ^{as} against Indians of the reservation of the Highlands as an administrative practice.

~~2-2-06~~
Colonial Office, Downing Street,
February, 1926

See attch. in draft
GWS 19
10/2

C A B I N E T

MEMORANDUM

SECRET

J. 7.2
Sir C. Bottomley X

I am sorry that the Secretary of State for India has brought into the foreground what is really a comparatively minor issue. In my first memorandum I desired to bring before my colleagues the situation in Kenya, to state the various questions which were causing annoyance and anxiety, and to ask for authority to prepare an Order in Council to define the Kenya Highlands.

2. I do not admit that the Convention of St. Germain or any other international document can have any bearing upon the relations of India to other parts of the Empire and the terms of the St. Germain Convention cannot give India any right as against any other part of the Empire. While I must admit that a statutory discrimination against ^{non-}Europeans would obviously be a violation of the Convention in regard to Japan, I do not admit that its validity ^{could} ~~can~~ be called in question by the Government of India, ^{challenged} even if it were intended to make discrimination statutory.
- which it is not -

3. Apart from that I do not agree that the present administrative practice is a violation of the Convention. The Government of Kenya has a perfect right to control the alienation of land. The present administrative practice has been in force for over twenty-five years, has been affirmed in public and confirmed by the Morris Carter Report. Further, it has been ^{endorsed} ~~introduced~~ by His Majesty's Government in the White Paper presented to Parliament in 1934, it is recognised and accepted by the Indians, and we owe it to the European population of Kenya to see to it that nothing is done to derogate in any way from the position as laid down in the ^{published} ~~previous~~ statements.

4. In view of the awkwardness of the situation which might arise and the arguments which might be put forward - though I do not admit their validity - I trust that no reference will be made by my colleague in communicating with the Viceroy to the terms of the Convention which I do not think can have any bearing upon the question so far as India is concerned. Japan is another matter. But even as

regards

regards Japan, the issue of an Order in Council,
 simply defining the Highlands and nothing else, ~~less~~
 will satisfy the Europeans in Kenya and would not
 be a legal violation of the Convention, since it would
 not in any way impose legal discrimination. After
 all, I have a right to decide to whom I propose to
 let my own house.



R

India Office.
Whitehall.

18/2/36

7th February 1936.

My dear Secretary of State,

I am sorry that there should have been any misunderstanding about the issue of my memorandum to the Cabinet. It was my intention that you should have an opportunity of commenting on it, and it was not circulated, as a matter of fact, until I had received assurance that there was no objection to its being issued from your point of view. How the misunderstanding arose I do not, of course, know. Let me say, with regard to the subject-matter of the memorandum, that the last thing in the world that I wish to do is to treat it in a controversial spirit: the situation is a sufficiently difficult one and all that I want to do is to find the best way out of it. I quite agree with you that our people in Kenya deserve consideration but what worries me is the situation which would arise if a Japanese (I will not say an Indian, for I realise that you and I cannot be expected to see quite eye to eye with regard to Indians) claimed the right to equal treatment in the Kenya Highlands. If I have misrepresented your position

The Secretary of State for the Colonies.

in my memorandum I will, of course, send out a revised version, and I enclose herewith a copy of the original memorandum, with a passage marked in brackets which I would propose to omit, and also with a draft of what I would propose to insert in its place. I quite see your point that India, being within the British Empire, cannot appeal to any international tribunal against the action of the British Government. I will not argue here the existence or otherwise of a moral obligation on Great Britain to accord to Indians the rights which they would possess as signatories to the St. Germain Convention if they did not happen to be members of the British Empire. But you do agree, I gather, that if, let us say, a Japanese claimed and established a right to equal treatment, it would be extremely difficult to deny a similar right to Indians. In any case, I do not wish to argue the case here or, indeed in the Cabinet in any controversial spirit, but merely to look the facts in the face and to see if any satisfactory solution of the problem can be found.

Yours sincerely,

L. B. *L. B. [Signature]*

I understand that the Secretary of State for the Colonies does not contest the view that a statutory perpetuation of the existing discrimination against non-Europeans in the Highlands area would be a violation of the Convention, though he is of opinion that a statutory discrimination limited to Indians only would be legally defensible. ~~Whatever~~ the legal position may be, I cannot myself see how we could defend a statutory discrimination against Indians eo nomine. I find it equally difficult to defend the present position under which discrimination against Indians is maintained by administrative order. If a national of an Asiatic foreign State which has adhered to the Convention, e.g. Japan, were to demand the right to purchase land in the Highlands, his demand could not, I presume, be refused on the ground that the refusal was administrative, not statutory. And if that is so, are we prepared to justify administrative practice under which Indians are placed in a worse position than nationals of an Asiatic State which is not a member of the British Empire?

Revised draft

C. O.

Mr. Flood 1.2.

For Signature by S. of S.

Mr.

Downing Street.

Mr.

6 February, 1936.

Sir C. Parkinson.

Sir G. Tomlinson

Sir C. Bottomley 1.2.

Sir G. Buahe 3.2:36.

Sir J. Shyoburgh 4/1/36

Permt. U.S. of S.

* Parly. U.S. of S.

Secretary of State.

My dear Secretary of State,

Thank you for your note of the 30th of January sending me a proof of your proposed memorandum to the Cabinet on the subject of the Kenya highlands.

I assumed that the memo. would not be circulated until you had heard whether I had any comments, and I was on the point of writing to you about it when I learned that your memorandum had been issued as C.P.18(36).

As I indicated in my letter of the 7th of January, I cannot admit that H.M.G. is under any moral or political obligation to modify the policy of reserving the highlands for European settlement and I cannot admit that the fact that the Convention of St. Germain was signed on behalf of India gives India any rights as against other parts

DRAFT.

THE MOST HONOURABLE
THE MARQUESS OF ZETLAND, P.C.,
G.C.S.I., G.C.I.E.,

212.4.2.1

FURTHER ACTION.

parts of the Empire. I shall of course

put in a further memorandum explaining my point of view.

The point on which I was about to write

to you arises out of the last sentence of the third paragraph of your memorandum where you say that you understand "that the Secretary of State for the Colonies does not contest the view that a statutory perpetuation of the existing discrimination against Indians in the highlands area would constitute a violation of the Convention".

I am afraid that this does not correctly

represent my views. I do not admit that discrimination against Indians only, whether statutory or otherwise would constitute a violation of the Convention, which does not apply as between different parts of the Empire. What my letter of the 9th of December was intended to mean was that, if a statutory discrimination against all non-Europeans was made, (and it would have to be framed in general terms and not against Indians only) then the Japanese would have

good

[wording slightly
altered]

C. O.

Mr.

Mr.

Mr.

Sir C. 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.

34

good grounds for protesting that the Convention had been infringed. Then, if the claim of Japanese to occupy land in the highlands of Kenya were admitted there would be serious political difficulty in practice in resisting the claim of the Indian. In my view/^{the} climatic difference between Japan and India justifies differentiation, but it might not be possible to maintain that view. In any case, if either claim were allowed it would involve the breaking of a pledge, a pledge which has been repeatedly confirmed, to our own people, who surely have a right to some consideration.

As you know, I am satisfied that on quite other grounds, (i.e. political, in India) it would be undesirable to impose any statutory discrimination in respect of the occupation of the highlands whatever

might

might be done in practice, and this aspect of the matter is not therefore of any great practical importance.

You will no doubt agree with me that it would be better, as far as we can, to avoid complicating our discussion in the Cabinet by bringing in questions of what I am or am not prepared to admit. This end would, I think, be secured if you would agree to circulate a revise of your memorandum, with the word "Indians" in the sentence which I have quoted altered to "non-Europeans" and I hope you can see your way to accept this suggestion.

[altered a little]

As I have said above, I shall have to put in a further memorandum and it will make things easier if I do not have to begin by explaining that my views have not been quite correctly understood or represented in your memorandum.

Yours sincerely,
(Signed) J. H. THOMAS

P.S. It seems to me that it might be difficult perhaps to insert a 'conventional' slip, saying that the word 'non-Europeans' should be substituted.

C. O.

38005/3A/35

14 35

- Mr. Paskin
- Mr. Stephenson
- Mr. Flood
- Sir C. Parkinson
- Sir G. Tomlinson
- Sir C. Bottomley
- Sir J. Shackburgh
- Permt. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

} 29/1/36
29/1/36

DOWNING STREET.

30 January, 1936.

Qto. for Mr. Flood

SECRET

DRAFT.

R. T. PEEL, ESQ., M. C.

Dear Peel,

Many thanks for your letter of the 27th January enclosing an advance copy of your draft memorandum to the Cabinet on the Kenya Highland question.

We are looking into the various points raised in the memorandum and will let you have our comments as soon as possible.

There is however one point which should, I think, be mentioned at once.

At the bottom of page 2 of the draft memorandum the contention is put forward in effect that the St. Germain's Convention must be regarded as a binding Convention as between the United Kingdom and India. This is entirely contrary to the

accepted

FURTHER ACTION.

Copy to Mr. Stephenson
✓ (S. U.)

Reimburse me
J.H.

accepted view as to the inter-Imperial operation of international Conventions, and I understand that if the Memorandum goes forward in this form, the Dominions Office (and possibly the Foreign Office) will find it necessary to take steps to contest the contention.

I do not think that this point is one of ^{much} practical importance, ^{and} to you, since we should not be able to resist the argument that, as a matter of general Imperial policy, we must give to Indians any concessions which we were compelled to give to (say) Japanese. It has been suggested, therefore, that, in order to avoid the discussion of this difficult question, your memorandum might be so framed as not to raise directly the question of the applicability of the Convention, as such, between the United Kingdom and India.

If you do not feel able to accept this suggestion, it might be convenient to have this question separately considered

by

C. O.

Mr.

Mr.

Mr.

Sir C. Parkinson.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

DRAFT.

36
by a suitable inter-departmental body on which the Dominions Office and the Foreign Office would be represented, e.g. the inter-departmental Committee on inter-Imperial relations which meets under the chairmanship of Mounsey of the Foreign Office. But the D.O. must be consulted in any case & kept abreast of the proceedings.

Yours sincerely,

John G. Brown

FURTHER ACTION.

INDIA OFFICE,
WHITEHALL, S.W.1.

27th January, 1936.

Secret.

Dear Flood,

As promised over the telephone, I enclose, for your confidential information, an advance copy of our draft memorandum to the Cabinet on the Kenya Highlands question.

The draft has not yet been approved by our Secretary of State, so there is a possibility of amendments. But I think you may take it that it represents substantially the line which we shall take.

Yours sincerely,



J. E. W. Flood, Esq., C.M.G.,
Colonial Office,
S.W.1.

DRAFT MEMORANDUM.

Highlands question in Kenya.

Memorandum by the Secretary
of State for India.

In paragraphs 7 and 8 of the memorandum on affairs in Kenya circulated to the Cabinet by the Secretary of State for the Colonies (C.P.35) a proposal is made for giving effect to certain of the recommendations of the Merris Carter Commission regarding the reservation of the Highlands area in Kenya for European settlement. I understand that it is intended that the proposed Order in Council should be confined to a geographical definition of the boundaries of the Highlands area, and that no mention will be made in it of the "privileged position" of Europeans nor will it contain anything giving statutory effect to the existing administrative practice under which the area is reserved for European settlement.

The Government of India have impressed on me very strongly the importance from the political point of view in India of ensuring that nothing should be done to disturb the existing situation as regards the reservation of the Highlands area, and they would have preferred that the issue of any Order in Council on the subject

should be avoided. But, in the light of the discussions which I have had with the secretary of State for the Colonies and his predecessors, I am prepared to accept the above proposal as a reasonable compromise which goes as far as is possible towards meeting the views of the Government of India on the main issue.

My attention has, however, recently been drawn to a further complication which I feel bound to bring to the notice of my colleagues, namely, the bearing of the St. Germain Convention of 1919 on this matter. Article 3 of that Convention lays it down that "the nationals of those Powers, or of States, Members of the League of Nations, which may adhere to the present Convention shall, subject only to the limitations necessary for the maintenance of public security and order, enjoy without distinction the same treatment and the same rights as the nationals of the Power exercising authority in the territory with regard to the acquisition and transmission of their movable and real property". India adhered to the Convention as a Member of the League of Nations. To argue that the Convention cannot be considered to be binding as between signatories representing parts of the Empire, is

2510

tantamount to regarding India's adherence as quite meaningless, and I understand that the Secretary of State for the Colonies does not contest the view that a statutory perpetuation of the existing discrimination against Indians in the Highlands area would constitute a violation of the Convention.

But if this is admitted, it seems difficult to avoid the conclusion that the present position under which discrimination against Indians is maintained by administrative practice is equally a violation of the Convention. If a national of a foreign State which has adhered to the Convention, e.g. Japan, were to demand the right to purchase land in the Highlands, his demand could not, I suggest, be refused on the ground that the refusal was administrative - not statutory; and administrative discrimination against Indians seems to me, subject to anything the Secretary of State for the Colonies may have to say, to be equally indefensible.

It may be said that we need not anticipate the awkwardness of the

4.

41

situation that would arise if a Japanese made such an application. But here I am in a difficulty that arises from my responsibilities as Secretary of State for India. So far nothing has been said to the Viceroy about the bearing of the St. Germain Convention on the matter, which, as I have said, has just come to my notice. But it will be impossible for me to conceal it from him and similarly he will have to inform the Government of India. It seems to me inevitable that they will raise the points set out in the latter part of this note and, as I have indicated, I do not at present see what answer is to be made to them.

January 1926

Printed for the Cabinet. December 1925

~~Handwritten signature~~
Copy No. 2-56

SECRET.

C.P. 7 1257
(36)

CABINET.

AFFAIRS IN KENYA

Memorandum by the Secretary of State for the Colonies.

THE perennial antipathy between Government and settlers in Kenya shows every sign of becoming acute in the near future, and unless the situation is carefully handled there is a possibility of serious trouble.

2. It cannot be too strongly emphasised that the root of the discontent is economic. Like his fellows in every agricultural country, the European farmer in Kenya has been hard hit by the fall in world prices. In 1933 he received only £38 for as much of his four main products as would have realised £100 in 1928, and the value of some commodities, notably coffee, has since still further declined. In addition, the East African farmer has had his peculiar troubles in the shape of locust ravages and drought, which have prevented him from compensating by increased production for the fall in values of his produce. He has looked with a jealous eye at his neighbours in South Africa, where the agriculturist has been heavily subsidised out of the surplus profits from the Rand, and even at the farmer in the United Kingdom, who has received a measure of Governmental support impossible in a country like Kenya, which has no resources other than those derived, directly or indirectly, from the depressed agricultural industry itself.

3. It is not surprising, therefore, that, with some fortunate exceptions, the Kenya settler feels that his hopes of assured prosperity are ruined and that chances even of his recovery are small; nor is it without parallel in other times and countries that he should blame Government for the acts of God, and find an outlet for his despair in levelling bitter charges of apathy and malevolence against Government House and the Colonial Office. A very vocal minority who unfortunately have the support of the local press have been very active in agitation and an undue measure of publicity has thereby been given to extreme views. At the same time there is no doubt that there are many cases of real hardship among the settlers and it is only natural that their grievances should be laid at the door of the Government.

4. The settlers' widespread feelings of grievance received emphatic expression at a recent meeting of the Convention of Associations (sometimes known as the Settlers' Parliament) in Nairobi. The delegates at the Convention endorsed a statement drawn up by their leaders containing a long list of specific complaints and demands. With most of these I need not trouble my colleagues. In the case of a few of them I may be able to take action which will go some way to meet the settlers' case, and which may partially reassure them of the sympathy with which His Majesty's Government regard their difficulties. I feel that this is necessary in view of the deep disappointment which probably awaits the settlers on the question with which this paper is principally concerned.

5. To recapitulate the settlers' principal grievances: Government is accused of (a) doing nothing to keep the farmer on the land; (b) failing to reduce the heavy burden of indebtedness, public and private, under which the country labours; (c) maintaining, from the proceeds of excessive taxation, a costly administrative

[12425]

01

machine out of all proportion to the country's needs and capacity; (d) resisting the white settler's aspirations to a greater control of the Colony's affairs, and his desire to be joined in a closer union with the neighbouring territories of Tanganyika and Uganda. Finally, Government is blamed for a delay in securing statutory permanence for the "privileged position" of Europeans in the Kenya Highlands.

6 With regard to these matters (a) it is generally admitted that European agriculture must remain, at any rate for some years to come, the mainstay of Kenya's economic position. To assist the two thousand white agriculturists to maintain their out-put of exportable products Government has taken every step that was reasonable and that lay open to it with its severely limited resources. A large part of the available cash balances has been advanced on very easy terms to assist the agriculturist and cheap capital has been provided to the extent of £500,000 through the agency of the Land Bank. The Colonial Development Fund has advanced no less than £132,000 on generous terms to assist a number of projects which will be of direct benefit to European industry in Kenya. The Customs tariff is so adjusted as to provide every legitimate protection and assistance to the settler (some, indeed, contend that it goes too far in this direction), and the same may be said of the rating system of the railway. The settlers are now asking for further assistance from the Land Bank, and their proposal has been recommended by the Administration. I am at present examining, with the Chancellor of the Exchequer, the possibility of providing under suitable conditions further substantial assistance for the funds of that Institution. If this can be arranged, it will not only be of considerable economic assistance to deserving settlers, but will have a substantial political value.

(b) The public debt of Kenya is admittedly onerous, but the greater part of it is a charge on the Railway. When the loans were raised the terms were not excessive and, indeed, the first loan (six per cent.) was not a market success. An exhaustive analysis carried out with the conjunction of the Treasury and the Bank of England has shown that relief before the dates when the various loans mature can be obtained only by imposing a wholly disproportionate capital burden on future generations, or by frank repudiation. Similarly, the individual producer cannot lightly escape from the burden of mortgages and other private obligations gaily incurred in more prosperous days. The remedy suggested for this and other handicaps by a majority of the Convention is the desperate device of devaluing the local currency in terms of sterling. There is nothing that we can do to meet the colony's and settlers' difficulties under this head.

(c) The administrative machine—a legacy from more prosperous times—is admittedly expensive; though even now the Kenya Civil Servant is treated less generously than his colleagues in the other British territories in Africa. But since the beginning of the depression the costs of Government have been repeatedly overhauled and very substantially reduced; and my predecessor recently appointed Sir Alan Pim (whose name was suggested by the settlers themselves) as an independent Commissioner to undertake the double mission of enquiring into the expenses of administration and advising on the possibility of taxation relief. There is evidence that this appointment has done something to mollify the settlers, though whether Sir Alan Pim can make any practical recommendations which will be helpful remains to be seen. Even if he cannot, there will be advantage in having a report to that effect from an independent authority virtually of the settlers' own choosing.

(d) With regard to the questions of greater control by the settlers of the Colony's affairs, and closer union with the neighbouring territories, my predecessor recently addressed a despatch to East Africa in which he rejected in reasoned terms the claims put forward by a conference of "unofficials" of Kenya and Tanganyika. He based his answer on the arguments and conclusions of the Joint Select Committee of 1931. There is reason to believe that the settlers even in Kenya do not consider the question of Closer Union as one of immediate importance.

7 Finally I come to the question of the European Highlands. It is over this that a storm may possibly break. The settlers have been assured, and I am prepared to repeat the assurance, that there is no present intention of departing from the administrative practice of the last thirty years, whereby the Highlands are reserved exclusively for white settlement.

The Morris Carter Commission in its report made two points regarding this territory. They first defined geographically the area in which Europeans should enjoy a "privileged position" and, secondly, recommended that these geographical boundaries should be "safeguarded by an Order in Council, so that the European community may have the same measure of security in regard to land as we have recommended for the natives." In their summary of recommendations the Commission also recommended "that the external boundaries of the European Highlands be defined in the Order in Council, and be subject to analogous safeguards as to exclusions, additions and exchanges as were recommended in the case of the Native Reserves.

The settlers urge that the Order in Council should give statutory effect to the administrative practice referred to above.

In the White Paper of 1934—(Cmd. 4580), it was stated that His Majesty's Government accepted the Commission's recommendations in regard to the boundaries of the Highlands, and approved the recommendation that the boundaries should be declared by Order in Council, in order to give added sense of security in that these boundaries could not thereafter be altered by local Ordinance.

There is nothing in this which could be construed as an undertaking that His Majesty's Government should meet the settlers' demand in full. I would propose to adopt the Carter recommendations, but otherwise not to go beyond a reaffirmation of the time-honoured administrative practice. In my view this would meet the legitimate claims of the European settlers for security in the Highlands.

To go further and give statutory effect to the administrative practice would not only antagonise a large body of responsible opinion in this country, it would also meet with most determined resistance from the Government and people of India, who are interested from the point of view of the Indians in Kenya. Sir Joseph Blore raised the matter when he was in this country earlier in the year, and my predecessor had conversations regarding it with the Secretary of State for India. Whilst it would appear that the Indian people and Government are prepared to acquiesce in the existing practice, they would denounce any statutory perpetuation of what they regard as racial discrimination. I need not go into the arguments which they bring forward, which seem to me to have great force.

8. The reaction of the unofficial community in Kenya to an announcement conveying that their wishes in regard to the Highlands cannot be fully met is not difficult to predict. The Governor (who can be relied upon to handle any situation which arises with patience and determination) advises me that they are feeling extremely strongly on the question, and that the only uncertainty attaches to the lengths to which they will be prepared to go in their opposition. There is wild talk in some quarters of such measures as organised passive resistance to taxation (an example which other elements in the Colony might not be slow to follow). Before announcing the decision which I have reached on the matter, and which I am convinced is inescapable, I have thought it well to acquaint my colleagues of the consequences which it may arouse. I would add that I do not propose to make any announcement until the troublesome Budget debates in the Kenya Legislative Council are over. Sir Alan Pim has finished his enquiries, and I may have been able to take action in other matters, e.g., regarding the Land Bank, which will help to sugar the settlers' pill. But in the meantime I ask for the Cabinet's authority to prepare the necessary Order in Council on the limited lines which I have proposed above.

(Initialled)

J. H. T.

Colonial Office, Downing Street,
December 1935

January 13th 1936

C. O.

38008/3A/35.(S)

Kenya.

9-44

Mr. Boyd 6/1/36.

Mr. J. 6.1.

Mr.

Sir C. Parkinson.

Sir G. Tomlinson.

X Sir C. Bottomley. 6.1

Sir J. Shuckburgh.

Parly. U.S. of S.

Parly. U.S. of S.

Secretary of State.

Admitted by

7/1/36
S. J. f.

DRAFT.

The Most Hon.,
The Marquess of Zetland,
P.C., G.C.S.I., G.C.I.E.

Quarto for the S. of S's signature.

Secret

7 January, 1936.

My dear Secretary of State,

Thank you for your letter of

(8) the 19th of December in answer to

(6) mine of the 9th about my proposed

memorandum to the Cabinet on affairs

in Kenya.

I see that you find it difficult to escape the conclusion that the existing administrative practice of discrimination against Indians in the Highlands of Kenya constitutes a violation of the Saint-Germain Convention, and that you feel that you will be bound to let the Viceroy know of the apparent illegality of the present situation. Of course I quite

appreciate

FURTHER ACTION.

appreciate your point of view, and the difficulties of your position, and I should welcome a full discussion of the matter in Cabinet. My suggestion therefore is that I should proceed with the circulation of my paper in its present form, but that before it comes up for consideration at the next Cabinet (which may not be for some little time yet) you should also circulate a memorandum dealing with the Saint-Germain Convention point and setting out the position from the India Office point of view. I should then have to state my case in a supplementary memorandum. I should of course be bound to take the line that, so long as Indians are the only Asiatics concerned, it can safely be

it was as part of the purpose of
maintained that the Convention of 1919 *did not alter the relations between different parts of the Empire, and that the Convention did nothing to vary the practice, which had already*

existed for thirteen years, of reserving the non-native part of the Highlands for European settlement,

leaving Indians free to take up land in those parts of the Empire in which they, but not the Europeans, could reside.
of the Convention to alter the relations between different portions of the Empire.

C. O.

Mr.

Mr.

Mr.

Sir C. Parkinson.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Perm. U.S. of S.

Party. U.S. of S.

Secretary of State.

I think that this will be the best procedure in the circumstances, but of course if you can suggest any other course, I should be glad to consider it.

Yours sincerely,

Tomlinson

DRAFT.

FURTHER ACTION.



*Copy sent to
Sir J. H. Thomas
Sept 20*

846

India Office.
Whitehall

19th December 1935.

Recd 20/12/35

My dear Secretary of State,

Many thanks for your kindness in sending me in draft form your memorandum to the Cabinet on Affairs in Kenya. I note from it that you are able to meet the case which I put to your predecessor to the extent of confining the proposed Order in Council to a definition of the boundaries of the Highlands. For this I am grateful. There remains, however, the difficult matter of the Saint-Germain Convention. In this connection I see from your letter of the 9th December that you propose to mention orally, when the matter comes before the Cabinet, the fact that a statutory perpetuation of the existing discrimination against Indians would constitute a violation of the Saint Germain Convention. I find it difficult to escape from the conclusion that the existing discrimination equally constitutes a violation of the Convention; and I feel, therefore, that I must bring to your notice at once the difficulty which I should experience in refraining from

The Rt. Hon. J. H. Thomas, M.P.

calling the attention of the Cabinet to the position as I see it. Apart from the question whether His Majesty's Government can acquiesce in this, there is also the difficulty in which we should find ourselves if India, as may easily happen, were to challenge the action of the Government in assenting to a practice which constituted a violation of an international engagement. The matter is, as you say, an extremely awkward one. Is there any way out? In accordance with your wish I am treating the matter as being for the present the subject of personal correspondence between you and myself; that is to say I am not at present making any reference to the Viceroy. But I could not undertake to keep him - or his Government - permanently in the dark as to the apparent illegality of the practice of His Majesty's Government in Kenya!

Yours sincerely

Lehard.



16th December, 1935.

Dear Stewart

Since our talk ^{on the 2nd} yesterday I have looked into the question of the Muboroni farms. The pages shown under Muboroni in the index to the report relate to different things and in particular Indian farms at Kibos in paragraph 1151 are not in point.

Central Commission

The position shown in plan I.A. at the back of volume three of the index is referred to on pages 2827-2841 of that volume. Taking the right hand third of plan I.A. we have three suggested variants of the Highlands boundary, one of which (the dotted line) excludes all the Indian farms from the definition but also excludes a large number of European owned farms, while another (the solid black line) includes both the Indian and the European farms. The intermediate suggestion separates Indian from Indian and European from European.

Sir Pindlater Stewart, K.C.B., C.C.I.E., C.S.I., ..

The

The definition to be put in the Order-in-Council is ^{being} ~~the one~~ drafted in East Africa and it will clearly require very careful consideration when it is received here.

There can be no doubt that from the point of view of having an absolutely colourless Order in-Council the dotted line would be the best to choose but there would be strong protests from the European farmholders who would find themselves excluded from the Highlands.

Actually there will be no difficulty in practice in maintaining the present status of these European farms or in applying the suggestion of the Commission to the Indian farms since, quite apart from the "administrative practice" relating to the Highlands, there is the Governor's general power under the Crown Lands Ordinance of controlling transfers between people of different races.

Yours sincerely,

W.W.S.

6 30

C. O.

Mr. Boyd 7/12/35.

Mr.

Mr.

9 December, 1935.

Sir C. Parkinson.

Sir G. Tomlinson.

SECRET.

Sir C. Bottomley.

Sir J. Shuckburgh

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State

*SSD
9/14/35
f*

Dear Secretary State
.....

DRAFT.

The Most Hon.,

The Marquess of Zetland,

P.C., G.C.S.I., G.C.I.E.

I understand that my predecessor told you some little time ago of his intention to circulate to the Cabinet a memorandum on the present political and economic situation in Kenya, and that he promised he would issue you see it in draft before issue.

This memorandum had been in course of preparation but was not completed before he left the Colonial Office, and I have now gone into the matter afresh. The paper which I enclose is an advance copy of the memorandum in its present form, and my intention is to circulate it in time for the

FURTHER ACTION.

meeting

meeting of the Cabinet on Wednesday, the 18th of December, which will, I suppose, be the last regular meeting this year.

I may say that I had originally contemplated adding at the end of paragraph 7 of the memorandum a further sub-paragraph to the following effect:-

"Apart from this, such a statutory provision could only be effected at the expense of violating the Convention of Saint-Germain and other international obligations."

But on reflection I decided not to include this, but to mention it orally at the Cabinet meeting. You will see my point. The position is distinctly awkward, both from the point of view of opinion in Kenya itself and in India.

*Your sincerely,
prothomas*

Jan 18 1935

Printed for the Cabinet. December 1935.

SECRET.

Revised Draft
Copy No. 3

C.P. 7

(36)

CABINET.

9/1/35

AFFAIRS IN KENYA

Memorandum by the Secretary of State for the Colonies.

THE perennial antipathy between Government and settlers in Kenya shows every sign of becoming acute in the near future, and unless the situation is carefully handled there is a possibility of serious trouble.

2. It cannot be too strongly emphasised that the root of the discontent is economic. Like his fellows in every agricultural country, the European farmer in Kenya has been hard hit by the fall in world prices. In 1933 he received only £38 for as much of his four main products as would have realised £100 in 1928, and the value of some commodities, notably coffee, has since still further declined. In addition, the East African farmer has had his peculiar troubles in the shape of locust ravages and drought, which have prevented him from compensating by increased production for the fall in values of his produce. He has looked with a jealous eye at his neighbours in South Africa, where the agriculturist has been heavily subsidised out of the surplus profits from the Rand; and even at the farmer in the United Kingdom, who has received a measure of Governmental support impossible in a country like Kenya, which has no resources other than those derived, directly or indirectly, from the depressed agricultural industry itself.

3. It is not surprising, therefore, that, with some fortunate exceptions, the Kenya settler feels that his hopes of assured prosperity are ruined and that chances even of his recovery are small; nor is it without parallel in other times and countries that he should blame Government for the acts of God, and find an outlet for his despair in levelling bitter charges of apathy and malevolence against Government House and the Colonial Office. A very vocal minority who unfortunately have the support of the local press have been very active in agitation and an undue measure of publicity has thereby been given to extreme views. At the same time there is no doubt that there are many cases of real hardship among the settlers and it is only natural that their grievances should be laid at the door of the Government.

4. The settlers' widespread feelings of grievance received emphatic expression at a recent meeting of the Convention of Associations (sometimes known as the Settlers' Parliament) in Nairobi. The delegates at the Convention endorsed a statement drawn up by their leaders containing a long list of specific complaints and demands. With most of these I need not trouble my colleagues. In the case of a few of them I may be able to take action which will go some way to meet the settlers' case, and which may partially reassure them of the sympathy with which His Majesty's Government regard their difficulties. I feel that this is necessary in view of the deep disappointment which probably awaits the settlers on the question with which this paper is principally concerned.

5. To recapitulate the settlers' principal grievances: Government is accused of (a) doing nothing to keep the farmer on the land; (b) failing to reduce the heavy burden of indebtedness, public and private, under which the country labours; (c) maintaining, from the proceeds of excessive taxation, a costly administrative

machine out of all proportion to the country's needs and capacity; (d) resisting the white settler's aspirations to a greater control of the Colony's affairs, and his desire to be joined in a closer union with the neighbouring territories of Tanganyika and Uganda. Finally, Government is blamed for a delay in securing statutory permanence for the "privileged position" of Europeans in the Kenya Highlands.

6. With regard to these matters (a) it is generally admitted that European agriculture must remain, at any rate for some years to come, the mainstay of Kenya's economic position. To assist the two thousand white agriculturists to maintain their out-put of exportable products Government has taken every step that was reasonable and that lay open to it with its severely limited resources. A large part of the available cash balances has been advanced on very easy terms to assist the agriculturist; and cheap capital has been provided to the extent of £500,000 through the agency of the Land Bank. The Colonial Development Fund has advanced no less than £132,000 on generous terms to assist a number of projects which will be of direct benefit to European industry in Kenya. The Customs tariff is so adjusted as to provide every legitimate protection and assistance to the settler (some, indeed, contend that it goes too far in this direction), and the same may be said of the rating system of the railway. The settlers are now asking for further assistance from the Land Bank, and their proposal has been recommended by the Administration. I am at present examining, with the Chancellor of the Exchequer, the possibility of providing under suitable conditions further substantial assistance for the funds of that Institution. If this can be arranged, it will not only be of considerable economic assistance to deserving settlers, but will have a substantial political value.

(b) The public debt of Kenya is admittedly onerous, but the greater part of it is a charge on the Railway. When the loans were raised the terms were not excessive and, indeed, the first loan (six per cent.) was not a market success. An exhaustive analysis carried out with the conjunction of the Treasury and the Bank of England has shown that relief before the dates when the various loans mature can be obtained only by imposing a wholly disproportionate capital burden on future generations, or by frank repudiation. Similarly, the individual producer cannot lightly escape from the burden of mortgages and other private obligations gaily incurred in more prosperous days. The remedy suggested for this and other handicaps by a majority of the Convention is the desperate device of devaluing the local currency in terms of sterling. There is nothing that we can do to meet the colony's and settlers' difficulties under this head.

(c) The administrative machine—a legacy from more prosperous times—is admittedly expensive; though even now the Kenya Civil Servant is treated less generously than his colleagues in the other British territories in Africa. But since the beginning of the depression the costs of Government have been repeatedly overhauled and very substantially reduced; and my predecessor recently appointed Sir Alan Pim (whose name was suggested by the settlers themselves) as an independent Commissioner to undertake the double mission of enquiring into the expenses of administration and advising on the possibility of taxation relief. There is evidence that this appointment has done something to mollify the settlers, though whether Sir Alan Pim can make any practical recommendations which will be helpful remains to be seen. Even if he cannot, there will be advantage in having a report to that effect from an independent authority virtually of the settlers' own choosing.

(d) With regard to the questions of greater control by the settlers of the Colony's affairs, and closer union with the neighbouring territories, my predecessor recently addressed a despatch to East Africa in which he rejected in reasoned terms the claims put forward by a conference of "unofficials" of Kenya and Tanganyika. He based his answer on the arguments and conclusions of the Joint Select Committee of 1931. There is reason to believe that the settlers even in Kenya do not consider the question of Closer Union as one of immediate importance.

7. Finally I come to the question of the European Highlands. It is over this that a storm may possibly break. The settlers have been assured, and I am prepared to repeat the assurance, that there is no present intention of departing from the administrative practice of the last thirty years, whereby the Highlands are reserved exclusively for white settlement.

The Morris Carter Commission in its report made two points regarding this territory. They first defined geographically the area in which Europeans should enjoy a "privileged position" and, secondly, recommended that these geographical boundaries should be "safeguarded by an Order in Council, so that the European community may have the same measure of security in regard to land as we have recommended for the natives." In their summary of recommendations the Commission also recommended "that the external boundaries of the European Highlands be defined in the Order in Council, and be subject to analogous safeguards as to exclusions, additions and exchanges" as were recommended in the case of the Native Reserves.

The settlers urge that the Order in Council should give statutory effect to the administrative practice referred to above.

In the White Paper of 1934—(Cmd. 4580), it was stated that His Majesty's Government accepted the Commission's recommendations in regard to the boundaries of the Highlands, and approved the recommendation that the boundaries should be declared by Order in Council, in order to give added sense of security in that these boundaries could not thereafter be altered by local Ordinance.

There is nothing in this which could be construed as an undertaking that His Majesty's Government should meet the settlers' demand in full. I would propose to adopt the Carter recommendations, but otherwise not to go beyond a reaffirmation of the time-honoured administrative practice. In my view this would meet the legitimate claims of the European settlers for security in the Highlands.

To go further and give statutory effect to the administrative practice would not only antagonise a large body of responsible opinion in this country; it would also meet with most determined resistance from the Government and people of India, who are interested from the point of view of the Indians in Kenya. Sir Joseph Blore raised the matter when he was in this country earlier in the year, and my predecessor had conversations regarding it with the Secretary of State for India. Whilst it would appear that the Indian people and Government are prepared to acquiesce in the existing practice, they would denounce any statutory perpetuation of what they regard as racial discrimination. I need not go into the arguments which they bring forward, which seem to me to have great force.

8. The reaction of the unofficial community in Kenya to an announcement conveying that their wishes in regard to the Highlands cannot be fully met is not difficult to predict. The Governor (who can be relied upon to handle any situation which arises with patience and determination) advises me that they are feeling extremely strongly on the question, and that the only uncertainty attaches to the lengths to which they will be prepared to go in their opposition. There is wild talk in some quarters of such measures as organised passive resistance to taxation (an example which other elements in the Colony might not be slow to follow). Before announcing the decision which I have reached on the matter, and which I am convinced is inescapable, I have thought it well to acquaint my colleagues of the consequences which it may arouse. I would add that I do not propose to make any announcement until ~~early next year~~ when the troublesome Budget debates in the Kenya Legislative Council are over. Sir Alan Pim has finished his enquiries, and I may have been able to take action in other matters, e.g., regarding the Land Bank, which will help to sugar the settlers' pill. But in the meantime I ask for the Cabinet's authority to prepare the necessary Order in Council on the limited lines which I have proposed above.

(Initialled)

Colonial Office, Downing Street,
December 1935

January, 1936

J H T

See minutes
27/1/36

Printed for the Cabinet. December 1935

SECRET.

C.P. (35)

Copy No. 2

CABINET.AFFAIRS IN KENYA.*Memorandum by the Secretary of State for the Colonies.*

THE perennial antipathy between Government and settlers in Kenya shows every sign of becoming acute in the near future, and unless the situation is carefully handled there is a possibility of serious trouble.

2. It cannot be too strongly emphasised that the root of the discontent is economic. Like his fellows in every agricultural country, the European farmer in Kenya has been hard hit by the fall in world prices. In 1933 he received only £38 for as much of his four main products as would have realised £100 in 1928; and the value of some commodities, notably coffee, has since still further declined. In addition, the East African farmer has had his peculiar troubles in the shape of locust ravages and drought, which have prevented him from compensating by increased production for the fall in values of his produce. He has looked with a jealous eye at his neighbours in South Africa, where the agriculturist has been heavily subsidised out of the surplus profits from the Rand; and even at the farmer in the United Kingdom, who has received a measure of Governmental support impossible in a country like Kenya, which has no resources other than those derived, directly or indirectly, from the depressed agricultural industry itself.

3. It is not surprising, therefore, that, with some fortunate exceptions, the Kenya settler feels that his hopes of assured prosperity are ruined and that chances even of his recovery are small; nor is it without parallel in other times and countries that he should blame Government for the acts of God, and find an outlet for his despair in levelling bitter charges of anathy and malevolence against Government House and the Colonial Office. A very vocal minority who unfortunately have the support of the local press have been very active in agitation and an undue measure of publicity has thereby been given to extreme views. At the same time there is no doubt that there are many cases of real hardship among the settlers and it is only natural that their grievances should be laid at the door of the Government.

4. The settlers' widespread feelings of grievance received emphatic expression at a recent meeting of the Convention of Associations (sometimes known as the Settlers' Parliament) in Nairobi. The delegates at the Convention endorsed a statement drawn up by their leaders containing a long list of specific complaints and demands. With most of these I need not trouble my colleagues. In the case of a few of them I may be able to take action which will go some way to meet the settlers' case, and which may partially reassure them of the sympathy with which His Majesty's Government regard their difficulties. I feel that this is necessary in view of the deep disappointment which probably awaits the settlers on the question with which this paper is principally concerned.

5. To recapitulate the settlers' principal grievances: Government is accused of (a) doing nothing to keep the farmer on the land; (b) failing to reduce the heavy burden of indebtedness, public and private, under which the country labours; (c) maintaining, from the proceeds of excessive taxation, a costly administrative

2
machine out of all proportion to the country's needs and capacity; (d) resisting the white settler's aspirations to a greater control of the Colony's affairs, and his desire to be joined in a closer union with the neighbouring territories of Tanganyika and Uganda. Finally, Government is blamed for a delay in securing statutory permanence for the "privileged position" of Europeans in the Kenya Highlands.

36. With regard to these matters (a) it is generally admitted that European agriculture must remain, at any rate for some years to come, the mainstay of Kenya's economic position. To assist the two thousand white agriculturists to maintain their out-put of exportable products Government has taken every step that was reasonable and that lay open to it with its severely limited resources. A large part of the available cash balances has been advanced on very easy terms to assist the agriculturist: and cheap capital has been provided to the extent of £500,000 through the agency of the Land Bank. The Colonial Development Fund has advanced no less than £132,000 on generous terms to assist a number of projects which will be of direct benefit to European industry in Kenya. The Customs tariff is so adjusted as to provide every legitimate protection and assistance to the settler (some, indeed, contend that it goes too far in this direction), and the same may be said of the rating system of the railway. The settlers are now asking for further assistance from the Land Bank, and their proposal has been recommended by the Administration. I am at present examining, with the Chancellor of the Exchequer, the possibility of providing under suitable conditions a further £500,000 for the funds of that Institution. If this can be arranged, it will not only be of considerable economic assistance to deserving settlers, but will have a substantial political value.

Further
Substantial
assistance

(b) The public debt of Kenya is admittedly onerous, but the greater part of it is a charge on the Railway. When the loans were raised the terms were not excessive and, indeed, the first loan (six per cent.) was a market success. An exhaustive analysis carried out with the conjunction of the Treasury and the Bank of England has shown that relief before the dates when the various loans mature can be obtained only by imposing a wholly disproportionate capital burden on future generations, or by frank repudiation. Similarly, the individual producer cannot lightly escape from the burden of mortgages and other private obligations gaily incurred in more prosperous days. The remedy suggested for this and other handicaps by a majority of the Convention is the desperate device of devaluing the local currency in terms of sterling. There is nothing that we can do to meet the colony's and settlers' difficulties under this head.

(c) The administrative machine—a legacy from more prosperous times—is admittedly expensive; though even now the Kenya Civil Servant is treated less generously than his colleagues in the other British territories in Africa. But since the beginning of the depression the costs of Government have been repeatedly overhauled and very substantially reduced; and my predecessor recently appointed Sir Alan Pim (whose name was suggested by the settlers themselves) as an independent Commissioner to undertake the double mission of enquiring into the expenses of administration and advising on the possibility of taxation relief. There is evidence that this appointment has done something to mollify the settlers, though whether Sir Alan Pim can make any practical recommendations which will be helpful remains to be seen. Even if he cannot, there will be advantage in having a report to that effect from an independent authority virtually of the settlers' own choosing.

(d) With regard to the questions of greater control by the settlers of the Colony's affairs, and closer union with the neighbouring territories, my predecessor recently addressed a despatch to East Africa in which he rejected in reasoned terms the claims put forward by a conference of "unofficials" of Kenya and Tanganyika. He based his answer on the arguments and conclusions of the Joint Select Committee of 1931. There is reason to believe that the settlers in ~~at any rate~~ Kenya do not consider the question of Closer Union as one of immediate importance.

Even in

Finally I come to the question of the European Highlands. It is over this that a storm may possibly break. The settlers have been assured, and I am prepared to repeat the assurance, that there is no present intention of departing from the administrative practice of the last thirty years, whereby the Highlands are reserved exclusively for white settlement.

3
The Morris Carter Commission in its report made two points regarding this territory. They first defined geographically the area in which Europeans should enjoy a "privileged position" and, secondly, recommended that these geographical boundaries should be "safeguarded by an Order in Council, so that the European community may have the same measure of security in regard to land as we have recommended for the natives." In their summary of recommendations the Commission also recommended "that the external boundaries of the European Highlands be defined in the Order in Council, and be subject to analogous safeguards as to exclusions, additions and exchanges" as were recommended in the case of the Native Reserves.

The settlers urge that the Order in Council should give statutory effect to the administrative practice referred to above.

In the White Paper of 1934—(Cmd. 4580), it was stated that His Majesty's Government accepted the Commission's recommendations in regard to the boundaries of the Highlands, and approved the recommendation that the boundaries should be declared by Order in Council, in order to give added sense of security in that these boundaries could not thereafter be altered by local Ordinance.

There is nothing in this which could be construed as an undertaking that His Majesty's Government should meet the settlers' demand in full. I would propose to adopt the Carter recommendations, but otherwise not to go beyond a reaffirmation of the time-honoured administrative practice. In my view this would meet the legitimate claims of the European settlers for security in the Highlands.

To go further and give statutory effect to the administrative practice would not only antagonise a large body of responsible opinion in this country; it would also meet with most determined resistance from the Government and people of India, who are interested from the point of view of the Indians in Kenya. Sir Joseph Blore raised the matter when he was in this country earlier in the year, and my predecessor had conversations regarding it with the Secretary of State for India. Whilst it would appear that the Indian people and Government are prepared to acquiesce in the existing practice, they would denounce any statutory perpetuation of what they regard as racial discrimination. I need not go into the arguments which they bring forward, which seem to me to have great force.

~~Apart from this, such a statutory provision could only be effected at the expense of violating the Convention of Saint Germain and other international obligations.~~

8 / The reaction of the unofficial community in Kenya to an announcement conveying that their wishes in regard to the Highlands cannot be fully met is not difficult to predict. The Governor (who can be relied upon to handle any situation which arises with patience and determination) advises me that they are feeling extremely strongly on the question, and that the only uncertainty attaches to the lengths to which they will be prepared to go in their opposition. There is wild talk in some quarters of such measures as organised passive resistance to taxation (an example which other elements in the Colony might not be slow to follow). Before announcing the decision which I have reached on the matter, and which I am convinced is inescapable, I have thought it well to acquaint my colleagues of the consequences which it may arouse. I would add that I do not propose to make any announcement until early next year, when the troublesome Budget debates in the Kenya Legislative Council are over. Sir Alan Pim has finished his enquiries, and I may have been able to take action in other matters, e.g., regarding the Land Bank, which will help to sugar the settlers' pill. But in the meantime I ask for the Cabinet's authority to prepare the necessary Order in Council on the limited lines which I have proposed above.

(Initialled)

Colonial Office, Downing Street,
December 1935.

Printed for the Cabinet. December 1935.

SECRET.

C.P. (35)

Copy No.

CABINET.

AFFAIRS IN KENYA.

Memorandum by the Secretary of State for the Colonies.

THE perennial antipathy between Government and settlers in Kenya shows every sign of becoming acute in the near future, and unless the situation is carefully handled there is a possibility of serious trouble.

2. It cannot be too strongly emphasised that the root of the discontent is economic. Like his fellows in every agricultural country, the European farmer in Kenya has been hard hit by the fall in world prices. In 1933 he received only £38 for as much of his four main products as would have realised £100 in 1928; and the value of some commodities, notably coffee, has since still further declined. In addition, the East African farmer has had his peculiar troubles in the shape of locust ravages and drought, which have prevented him from compensating by increased production for the fall in values of his produce. He has looked with a jealous eye at his neighbours in South Africa, where the agriculturist has been heavily subsidised out of the surplus profits from the Rand; and even at the farmer in the United Kingdom, who has received a measure of Governmental support impossible in a country like Kenya, which has no resources other than those derived, directly or indirectly, from the depressed agricultural industry itself.

3. It is not surprising, therefore, that, with some fortunate exceptions, the Kenya settler feels that his hopes of assured prosperity are ruined and that chances even of his recovery are small; nor is it without parallel in other times and countries that he should blame Government for the acts of God, and find an outlet for his despair in levelling bitter charges of apathy and malevolence against Government House and the Colonial Office. Much of this agitation is the work of a clever and very vocal minority, who unfortunately have the support of the local Press, and whose views receive a publicity which is not altogether warranted by their real importance.

4. The settlers' widespread feelings of grievance received emphatic expression at a recent meeting of the Convention of Associations (sometimes known as the Settlers' Parliament) in Nairobi. The delegates at the Convention endorsed a statement drawn up by their leaders containing a long list of specific complaints and demands. With most of these I need not trouble my colleagues. In the case of a few of them I may be able to take action which will go some way to meet the settlers' case, and which may partially reassure them of the sympathy with which His Majesty's Government regard their difficulties. I feel that this is necessary in view of the deep disappointment which probably awaits the settlers on the question with which this paper is principally concerned.

5. To recapitulate the settlers' principal grievances: Government is accused of (a) doing nothing to keep the farmer on the land; (b) failing to reduce the heavy burden of indebtedness, public and private, under which the country labours; (c) maintaining, from the proceeds of excessive taxation, a costly administrative

machine out of all proportion to the country's needs and capacity; (d) resisting the white settler's aspirations to a greater control of the Colony's affairs, and his desire to be joined in a closer union with the neighbouring territories of Tanganyika and Uganda. Finally, Government is blamed for a delay in securing statutory permanence for the "privileged position" of Europeans in the Kenya Highlands.

6. With regard to these matters (a) it is generally admitted that European agriculture must remain, at any rate for some years to come, the mainstay of Kenya's economic position. To assist the two thousand white agriculturists to maintain their out-put of exportable products Government has taken every step that was reasonable and that lay open to it with its severely limited resources. A large part of the available cash balances has been advanced on very easy terms to assist the agriculturist: and cheap capital has been provided to the extent of £500,000 through the agency of the Land Bank. The Colonial Development Fund has advanced no less than £132,000 on generous terms to assist a number of projects which will be of direct benefit to European industry in Kenya. The Customs tariff is so adjusted as to provide every legitimate protection and assistance to the settler (some, indeed, contend that it goes too far in this direction), and the same may be said of the rating system of the railway. The settlers are now asking for further assistance from the Land Bank, and their proposal has been recommended by the Administration. I am at present examining, with the Chancellor of the Exchequer, the possibility of providing under suitable conditions a further £500,000 for the funds of that Institution. If this can be arranged, it will not only be of considerable economic assistance to deserving settlers, but will have a substantial political value.

(b) The public debt of Kenya is admittedly onerous, but the greater part of it is a charge on the Railway. When the loans were raised the terms were not excessive and, indeed, the first loan (six per cent.) was not a market success. An exhaustive analysis carried out with the conjunction of the Treasury and the Bank of England has shown that relief before the dates when the various loans mature can be obtained only by imposing a wholly disproportionate capital burden on future generations, or by frank repudiation. Similarly, the individual producer cannot lightly escape from the burden of mortgages and other private obligations gaily incurred in more prosperous days. The remedy suggested for this and other handicaps by a majority of the Convention is the desperate device of devaluing the local currency in terms of sterling. There is nothing that we can do to meet the colony's and settlers' difficulties under this head.

(c) The administrative machine—a legacy from more prosperous times—is admittedly expensive, though even now the Kenya Civil Servant is treated less generously than his colleagues in the other British territories in Africa. But since the beginning of the depression the costs of Government have been repeatedly overhauled and very substantially reduced; and my predecessor recently appointed Sir Alan Pim (whose name was suggested by the settlers themselves) as an independent Commissioner to undertake the double mission of enquiring into the expenses of administration and advising on the possibility of taxation relief. There is evidence that this appointment has done something to mollify the settlers, though whether Sir Alan Pim can make any practical recommendations which will be helpful remains to be seen. Even if he cannot, there will be advantage in having a report to that effect from an independent authority virtually of the settlers' own choosing.

(d) With regard to the questions of greater control by the settlers of the Colony's affairs, and closer union with the neighbouring territories, my predecessor recently addressed a despatch to East Africa in which he rejected in reasoned terms the claims put forward by a conference of "unofficials" of Kenya and Tanganyika. He based his answer on the arguments and conclusions of the Joint Select Committee of 1931. There is reason to believe that the settlers in at any rate Kenya do not consider the question of Closer Union as one of immediate importance.

Finally I come to the question of the European Highlands. It is over this that a storm may possibly break. The settlers have been assured, and I am prepared to repeat the assurance, that there is no present intention of departing from the administrative practice of the last thirty years, whereby the Highlands are reserved exclusively for white settlement.

The Morris Carter Commission in its report made two points regarding this territory. They first defined geographically the area in which Europeans should enjoy a "privileged position" and, secondly, recommended that these geographical boundaries should be "safeguarded by an Order in Council, so that the European community may have the same measure of security in regard to land as we have recommended for the natives." In their summary of recommendations the Commission also recommended "that the external boundaries of the European Highlands be defined in the Order in Council, and be subject to analogous safeguards as to exclusions, additions and exchanges" as were recommended in the case of the Native Reserves.

The settlers urge that the Order in Council should give statutory effect to the administrative practice referred to above.

In the White Paper of 1934—(Cmd. 4580), it was stated that His Majesty's Government accepted the Commission's recommendations in regard to the boundaries of the Highlands, and approved the recommendation that the boundaries should be declared by Order in Council, in order to give added sense of security in that these boundaries could not thereafter be altered by local Ordinance.

There is nothing in this which could be construed as an undertaking that His Majesty's Government should meet the settlers' demand in full. I would propose to adopt the Carter recommendations, but otherwise not to go beyond a reaffirmation of the time-honoured administrative practice. In my view this would meet the legitimate claims of the European settlers for security in the Highlands.

To go further and give statutory effect to the administrative practice would not only antagonise a large body of responsible opinion in this country; it would also meet with most determined resistance from the Government and people of India, who are interested from the point of view of the Indians in Kenya. Sir Joseph Blore raised the matter when he was in this country earlier in the year, and my predecessor had conversations regarding it with the Secretary of State for India. Whilst it would appear that the Indian people and Government are prepared to acquiesce in the existing practice, they would denounce any statutory perpetuation of what they regard as racial discrimination. I need not go into the arguments which they bring forward, which seem to me to have great force.

Apart from this, such a statutory provision could only be effected at the expense of violating the Convention of Saint-Germain and other international obligations.

6. The reaction of the unofficial community in Kenya to an announcement conveying that their wishes in regard to the Highlands cannot be fully met is not difficult to predict. The Governor (who can be relied upon to handle any situation which arises with patience and determination) advises me that they are feeling extremely strongly on the question, and that the only uncertainty attaches to the lengths to which they will be prepared to go in their opposition. There is wild talk in some quarters of such measures as organised passive resistance to taxation (an example which other elements in the Colony might not be slow to follow). Before announcing the decision which I have reached on the matter, and which I am convinced is inescapable, I have thought it well to acquaint my colleagues of the consequences which it may arouse. I would add that I do not propose to make any announcement until early next year, when the troublesome Budget debates in the Kenya Legislative Council are over. Sir Alan Pim has finished his enquiries, and I may have been able to take action in other matters, e.g. regarding the Land Bank, which will help to sugar the settlers' pill. But in the meantime I ask for the Cabinet's authority to prepare the necessary Order in Council on the limited lines which I have proposed above.

(Initialled)

Colonial Office, Downing Street,
December 1935.

Printed for the Cabinet. December 1935.

SECRET.

Copy No. 1

C.P. (35)

Proof

CABINET.AFFAIRS IN KENYA.*Memorandum by the Secretary of State for the Colonies.*

THE perennial antipathy between Government and settlers in Kenya shows every sign of becoming acute in the near future, and unless the situation is carefully handled there is a possibility of serious trouble.

2. It cannot be too strongly emphasised that the root of the discontent is economic. Like his fellows in every agricultural country, the European farmer in Kenya has been hard hit by the fall in world prices. In 1933 he received only £38 for as much of his four main products as would have realised £100 in 1928; and the value of some commodities, notably coffee, has since still further declined. In addition, the East African farmer has had his peculiar troubles in the shape of locust ravages and drought, which have prevented him from compensating by increased production for the fall in values of his produce. He has looked with a jealous eye at his neighbours in South Africa, where the agriculturist has been heavily subsidised out of the surplus profits from the Rand; and even at the farmer in the United Kingdom, who has received a measure of Governmental support impossible in a country like Kenya, which has no resources other than those derived, directly or indirectly, from the depressed agricultural industry itself.

3. It is not surprising, therefore, that, with some fortunate exceptions, the Kenya settler feels that his hopes of assured prosperity are ruined and that chances even of his recovery are small; nor is it without parallel in other times and countries that he should blame Government for the acts of God, and find an outlet for his despair in levelling bitter charges of apathy and malevolence against Government House and the Colonial Office. Much of this agitation is the work of a clever and very vocal minority, who unfortunately have the support of the local Press, and whose views receive a publicity which is not altogether warranted by their real importance.

4. The settlers' widespread feelings of grievance received emphatic expression at a recent meeting of the Convention of Associations (sometimes known as the Settlers' Parliament) in Nairobi. The delegates at the Convention endorsed a statement drawn up by their leaders containing a long list of specific complaints and demands. With most of these I need not trouble my colleagues. In the case of a few of them I may be able to take action which will go some way to meet the settlers' case, and which may partially reassure them of the sympathy with which His Majesty's Government regard their difficulties. I feel that this is necessary in view of the deep disappointment which probably awaits the settlers on the question with which this paper is principally concerned.

5. To recapitulate the settlers' principal grievances: Government is accused of (a) doing nothing to keep the farmer on the land; (b) failing to reduce the heavy burden of indebtedness, public and private, under which the country labours; (c) maintaining, from the proceeds of excessive taxation, a costly administrative

machine out of all proportion to the country's needs and capacity; (d) resisting the white settler's aspirations, to a greater control of the Colony's affairs, and his desire to be joined in a closer union with the neighbouring territories of Tanganyika and Uganda. Finally, Government is blamed for a delay in securing statutory permanence for the "privileged position" of Europeans in the Kenya Highlands.

6. With regard to these matters (a) it is generally admitted that European agriculture must remain, at any rate for some years to come, the mainstay of Kenya's economic position. To assist the two thousand white agriculturists to maintain their out-put of exportable products Government has taken every step that was reasonable and that lay open to it with its severely limited resources. A large part of the available cash balances has been advanced on very easy terms to assist the agriculturist and cheap capital has been provided to the extent of £500,000 through the agency of the Land Bank. The Colonial Development Fund has advanced no less than £132,000 on generous terms to assist a number of projects which will be of direct benefit to European industry in Kenya. The Customs tariff is so adjusted as to provide every legitimate protection and assistance to the settler (some, indeed, contend that it goes too far in this direction), and the same may be said of the rating system of the railway. The settlers are now asking for further assistance from the Land Bank, and their proposal has been recommended by the Administration. I am at present examining, with the Chancellor of the Exchequer, the possibility of providing under suitable conditions a further £500,000 for the funds of that Institution. If this can be arranged it will not only be of considerable economic assistance to deservng settlers but will have a substantial political value.

(b) The public debt of Kenya is admittedly onerous, but the greater part of it is a charge on the Railway. When the loans were raised the terms were not excessive and indeed, the first loan (six per cent) was not a market success. An exhaustive analysis carried out with the conjunction of the Treasury and the Bank of England has shown that relief before the dates when the various loans mature can be obtained only by imposing a wholly disproportionate capital burden on future generations or by frank repudiation. Similarly the individual producer cannot lightly escape from the burden of mortgages and other private obligations gainly incurred in more prosperous days. The remedy suggested for this and other handicaps by a majority of the Convention is the desperate device of devaluing the local currency in terms of sterling. There is nothing that we can do to meet the colony's and settlers' difficulties under this head.

(c) The administrative machine, a legacy from more prosperous times, is admittedly expensive, though even now the Kenya Civil Servant is treated less generously than his colleagues in the other British territories in Africa. But since the beginning of the depression the costs of Government have been repeatedly overhauled and very substantially reduced and my predecessor recently appointed Sir Alan Pim (whose name was suggested by the settlers themselves) as an independent Commissioner to undertake the double mission of enquiring into the expenses of administration and advising on the possibility of taxation relief. There is evidence that this appointment has done something to mollify the settlers, though whether Sir Alan Pim can make any practical recommendations which will be helpful remains to be seen. Even if he cannot, there will be advantage in having a report to that effect from an independent authority virtually of the settlers' own choosing.

(d) With regard to the questions of greater control by the settlers of the Colony's affairs and closer union with the neighbouring territories, my predecessor recently addressed a despatch to East Africa in which he rejected in reasoned terms the claims put forward by a conference of "unofficials" of Kenya and Tanganyika. He based his answer on the arguments and conclusions of the Joint Select Committee of 1931. There is reason to believe that the settlers in at any rate Kenya do not consider the question of Closer Union as one of immediate importance.

Finally I come to the question of the European Highlands. It is over this that the storm may possibly break. The settlers have been assured, and I am prepared to repeat the assurance, that there is no present intention of departing from the administrative practice of the last thirty years, whereby the Highlands are reserved exclusively for white settlement.

The Morris Carter Commission in its report made two points regarding this territory. They first defined geographically the area in which Europeans should enjoy a "privileged position" and, secondly, recommended that these geographical boundaries should be "safeguarded by an Order in Council, so that the European community may have the same measure of security in regard to land as we have recommended for the natives." In their summary of recommendations the Commission also recommended "that the external boundaries of the European Highlands be defined in the Order in Council, and be subject to analogous safeguards as to exclusions, additions and exchanges" as were recommended in the case of the Native Reserves.

The settlers urge that the Order in Council should give statutory effect to the administrative practice referred to above.

In the White Paper of 1934—(Cmd. 4580), it was stated that His Majesty's Government accepted the Commission's recommendations in regard to the boundaries of the Highlands, and approved the recommendation that the boundaries should be declared by Order in Council, in order to give added sense of security in that these boundaries could not thereafter be altered by local Ordinance.

There is nothing in this which could be construed as an undertaking that His Majesty's Government should meet the settlers' demand in full. I would propose to adopt the Carter recommendations, but otherwise not to go beyond a reaffirmation of the time-honoured administrative practice. In my view this would meet the legitimate claims of the European settlers for security in the Highlands.

To go further and give statutory effect to the administrative practice would not only antagonise a large body of responsible opinion in this country; it would also meet with most determined resistance from the Government and people of India, who are interested from the point of view of the Indians in Kenya. Sir Joseph Bhore raised the matter when he was in this country earlier in the year, and my predecessor had conversations regarding it with the Secretary of State for India. Whilst it would appear that the Indian people and Government are prepared to acquiesce in the existing practice, they would denounce any statutory perpetuation of what they regard as racial discrimination. I need not go into the arguments which they bring forward, which seem to me to have great force.

Apart from this, such a statutory provision could only be effected at the expense of violating the Convention of Saint-Germain and other international obligations.

6. The reaction of the unofficial community in Kenya to an announcement conveying that their wishes in regard to the Highlands cannot be fully met is not difficult to predict. The Governor (who can be relied upon to handle any situation which arises with patience and determination) advises me that they are feeling extremely strongly on the question, and that the only uncertainty attaches to the lengths to which they will be prepared to go in their opposition. There is wild talk in some quarters of such measures as organised passive resistance to taxation (an example which other elements in the Colony might not be slow to follow). Before announcing the decision which I have reached on the matter, and which I am convinced is inescapable, I have thought it well to acquaint my colleagues of the consequences which it may arouse. I would add that I do not propose to make any announcement until early next year, when the troublesome Budget debates in the Kenya Legislative Council are over. Sir Alan Pim has finished his enquiries, and I may have been able to take action in other matters, e.g. regarding the Land Bank, which will help to sugar the settlers' pill. But in the meantime I ask for the Cabinet's authority to prepare the necessary Order in Council on the limited lines which I have proposed above.

(Initialled)

Colonial Office, Downing Street,
December 1935

Secy

CABINET.

Copy No. 6

C.P. (3)

~~DRAFT CABINET MEMORANDUM~~

cap
AFFAIRS IN KENYA.

Memorandum by the Secretary of State for the Colonies.

Bank

1. The perennial antipathy between Government and settlers in Kenya shows every sign of becoming acute in the near future, and unless the situation is carefully handled there is a possibility of serious trouble.

2. It cannot be too strongly emphasised that the root of the discontent is economic. Like his fellows in every agricultural country, the European farmer in Kenya has been hardly hit by the fall in world prices. In 1933 he received only £36 for as much of his four main products as would have realised £100 in 1928; and the value of some commodities, notably coffee, has since still further declined. In addition the East African farmer has had his peculiar troubles in the shape of locust ravages and drought, which have prevented him from compensating by increased production for the fall in values of his produce.

He has looked with a jealous eye at his neighbours in South Africa, where the agriculturist has been heavily subsidized out of the surplus profits from the Rand; and even at the farmer in the United Kingdom, who has received a measure of Governmental support impossible in a country like Kenya which has no resources other than those derived, directly or indirectly, from the depressed agricultural industry itself.

3.

It is not surprising, therefore, that, with some fortunate exceptions, the Kenya settler feels that his hopes of assured prosperity are ruined and that chances even of his recovery are small; nor is it without parallel in other times and countries that he should blame Government for the acts of God, and find an outlet for his despair in levelling bitter charges of apathy and malevolence against Government House and the Colonial Office. Much of this agitation is the work of a clever and very vocal

grievances; Government is accused of (a) doing nothing to keep the farmer on the land; (b) failing to reduce the heavy burden of indebtedness, public and private, under which the country labours; (c) maintaining, from the proceeds of excessive taxation, a costly administrative machine out of all proportion to the country's needs and capacity; (d) resisting the white settler's ~~legitimate~~ aspirations to a greater control of the Colony's affairs, and his desire to be joined in a closer union with the neighbouring territories of Tanganyika and Uganda. Finally, Government is blamed for a ~~(culpable)~~ delay in securing statutory permanence for the "privileged position" of Europeans in the Kenya Highlands.

Am. King

6. With regard to these matters, (a), it is generally admitted that European agriculture must remain, at any rate for some years to come, the mainstay of Kenya's economic position. To assist the two thousand white agriculturists to maintain

U

their out-put of exportable products Government has taken every step that was reasonable and that lay open to it with its severely limited resources.

A large part of the available cash balances has been advanced on very easy terms to assist the agriculturist: and cheap capital has been provided to the extent of £500,000 through the agency of the Land Bank.

The Colonial Development Fund has advanced no less than £132,000 on generous terms to assist a number of projects which will be of direct benefit to European industry in Kenya. The Customs tariff is so adjusted as to provide every legitimate protection and assistance to the settler (some indeed contend that it goes too far in this direction), and the same may be said of the rating system of the railway.

The settlers are now asking for further assistance from the Land Bank, and their proposal has been recommended by the Administration. I am at present examining with the Chancellor of the Exchequer the possibility of providing under suitable conditions a further £500,000 for the funds of that Institution.

5

64

If this can be arranged, it will not only be of considerable economic assistance to deserving settlers, but will have a substantial political value.

Green

(b). The public debt of Kenya is admittedly onerous, but the greater part of it is a charge on the Railway. When the loans were raised the terms were not excessive and indeed the first loan (six per cent) was not a market success. An exhaustive analysis carried out with the conjunction of the Treasury and the Bank of England has shown that relief before the dates when the various loans mature can be obtained only by imposing a wholly disproportionate capital burden on future generations, or by frank repudiation. Similarly, the individual producer cannot lightly escape from the burden of mortgages and other private obligations gaily incurred in more prosperous days. The remedy suggested for this and other handicaps by a majority of the Convention is the desperate device of devaluing the local currency in terms of sterling. There is

nothing that we can do to meet the colony's and settlers' difficulties under this head.

(c) The administrative machine - a legacy from more prosperous times - is admittedly expensive; though even now the Kenya Civil Servant is treated less generously than his colleagues in the other British territories in Africa. But, since the beginning of the depression, the costs of Government have been repeatedly overhauled and very substantially reduced; and my predecessor recently appointed Sir Alan Pim (whose name was suggested by the settlers themselves) as an independent Commissioner to undertake the double mission of enquiring into the expenses of administration and advising on the possibility of taxation relief. There is evidence that this appointment has done something to mollify the settlers, though whether Sir Alan Pim can make any practical recommendations which will be helpful remains to be seen. Even if he cannot, there will be advantage in having a report to that effect from an independent

66

authority virtually of the settlers own choosing.

(d) With regard to the questions of greater control by the settlers of the Colony's affairs, and closer union with the neighbouring territories, my predecessor recently addressed a despatch to East Africa in which he rejected in reasoned terms the claims put forward by a conference of "unofficials" of Kenya and Tanganyika. He based his answer on the arguments and conclusions of the Joint Select Committee of 1931. *There is reason to believe* ~~I have reason to know~~ that the settlers in at any rate Kenya do not consider the question of Closer Union as one of immediate importance, ~~and they are not likely therefore to make difficulties over this matter.~~

Finally I come to the question of the European Highlands. It is over this that a storm may possibly break. The settlers ~~has~~ *have* been assured, and I am prepared to repeat the assurance, that there is no present intention of departing from the administrative practice of the last thirty years, whereby the Highlands are reserved exclusively for white settlement.

"safeguarded by an Order-in-Council, so that the European community may have the same measure of security in regard to land as we have recommended for the natives". In their summary of recommendations the Commission also recommended "that the external boundaries of the European Highlands be defined in the Order-in-Council, and be subject to analogous safeguards as to exclusions, additions and exchanges" as were recommended in the case of the Native Reserves.

3

The settlers ~~urge~~ that the ~~Order-in-Council~~ should give statutory effect to the administrative practice referred to above.

~~But~~ The Morris Carter Commission in its report made two ^{points} ~~further recommendations~~ regarding this territory. They ~~suggested that the~~

~~geographical boundaries of the Highlands in which~~ ^{should} Europeans enjoy a "privileged position" ^{and secondly recommended that these} ~~should be~~ ^{geographical boundaries should be} defined by an Order-in-Council, ^{The Settlers urge} ~~and~~ that this Order in Council should give statutory effect to the administrative practice referred to above. ^{The} ~~settlers are pressing for the adoption of both~~

Insert from sheet attached

In the White Paper of 1934 - (Cmd.4580) it was stated that His Majesty's Government accepted the Commission's recommendations in regard to the boundaries of the Highlands, and approved the recommendation that the boundaries should be declared by Order-in-Council, in order to give added sense of security in that these boundaries could not thereafter be altered by local Ordinance.

~~There is nothing in this which could be construed as an undertaking that H M G should meet the settlers' demand necessarily adopt both the recommendations of the~~

in full.

~~the Morris Carter Commission, and Sir Philip
Cunliffe-Lister who was Secretary of State when
the White Paper was published agrees with me.~~

CARTER
after

I would propose to adopt the ~~first~~ recommendations
but otherwise not to go beyond a reaffirmation of
the time-honoured administrative practice. In
my view this would meet the legitimate claims
of the European settlers for security in the
Highlands.

Handwritten mark

To go further and give statutory effect
to the administrative practice would not only
antagonise a large body of responsible opinion
in this country; it would also meet with most
determined resistance from the Government and
people of India, who are interested from the
point of view of the Indians in Kenya. Sir Joseph
Bhore raised the matter when he was in this
country earlier in the year, and my predecessor
had conversations regarding it with the Secretary
of State for India. Whilst it would appear
that the Indian people and Government are prepared

Handwritten mark

prepared to acquiesce in the existing practice, they would denounce any statutory perpetuation of what they regard as racial discrimination. I need not go into the arguments which they bring forward, which seem to me to have great force.

Apart from this, ^{such action by statute or ordinance} ~~it~~ could only be effected

at the expense of violating the Convention of St. German and other international obligations.

6. The reaction of the unofficial community in Kenya to an announcement conveying that their wishes in regard to the Highlands cannot be fully met is not difficult to predict. The Governor (who can be relied upon to handle any situation which arises with patience and determination) advises me that they are feeling extremely strongly on the question, ^{and that} the only uncertainty attaches to the lengths to which they will be prepared to go in their opposition. There is wild talk in some

71

some quarters of such measures as organised passive resistance to taxation (an example which other elements in the Colony might not be slow to follow). Before announcing the decision which ~~we~~^I have reached on the matter, and which I am convinced is inescapable, I have thought it well to acquaint my colleagues of the consequences which it may arouse. I would add that I do not propose to make any announcement until early next year, when the troublesome Budget ^{is} debated in the Kenya Legislative Council ~~is~~^{is} over. Sir Alan Pim has finished his enquiries, and I may have been able to take action in ~~other~~ matters, e.g., regarding the Land Bank, which will help to sugar the settlers' pill. But in the meantime I ask for the Cabinet's authority to prepare the necessary Order-in-Council on the limited lines which I have proposed above.

(and so)

Colonel Wm. Brown, M.C.

December, 1955

7/4 72

DRAFT CABINET MEMORANDUM

AFFAIRS IN KENYA.

1. The perennial antipathy between Government and settlers in Kenya shows every sign of becoming acute in the near future, and unless the situation is carefully handled there is a possibility of serious trouble.

2. It cannot be too strongly emphasized that the root of the discontent is economic. Like his fellows in every agricultural country, the European farmer in Kenya has been hardly hit by the fall in world prices. In 1955 he received only £50 for as much of his four main products as would have realized £100 in 1950; and the value of some commodities - notably coffee - has since still further declined. In addition the East African farmer has had his peculiar troubles in the shape of locust ravages and drought, which have prevented him from compensating by increased production for the fall in values of his produce.

He has looked with a jealous eye at his neighbours in South Africa, where the agriculturist has been heavily subsidised out of the surplus profits from the Rand; and even at the farmer in the United Kingdom, who has received a measure of governmental support impossible in a country like Natal which has no resources other than those derived, directly or indirectly, from the depressed agricultural industry itself.

It is not surprising, therefore, that, with some fortunate exceptions, the Natal settler feels that his hopes of assured prosperity are ruined and that chances of his prosperity are small; and is it without parallel in other times and countries that he should blame Government for the acts of God, and find an outlet for his despair in levelling bitter charges of graft and misdeeds against Government House and the Colonial Office. Much of this agitation is the work of a clever and very vocal

74

minority who unfortunately control the local press, and whose views receive a publicity which is not altogether warranted by their real importance.

4. The settlers' widespread feelings of grievance received emphatic expression at a recent meeting of the Convention of Associations (sometimes known as the Settlers' Parliament) in Nairobi. The delegates at the Convention endorsed a statement drawn up by their leaders containing a long list of specific complaints and demands. With most of these I need not trouble my colleagues. In the case of some of them I may be able to take action which will go some way to meet the settlers' case, and which may partially reassure them of the sympathy with which His Majesty's Government regard their difficulties. I feel that this is necessary in view of the deep disappointment which probably awaits the settlers on the question with which this paper is principally concerned.

5. To recapitulate the settlers' principal

grievances; Government is accused of (a) doing nothing to keep the farmer on the land; (b) failing to reduce the heavy burden of indebtedness, public and private, under which the country labours; (c) maintaining, from the proceeds of excessive taxation, a costly administrative machine out of all proportion to the country's needs and capacity; (d) resisting the white settler's legitimate aspirations to a greater control of the Colony's affairs, and his desire to be joined in a closer union with the neighbouring territories of Tanganyika and Uganda. Finally, Government is blamed for a culpable delay in securing statutory recognition for the "privileged position" of Europeans in the Kenya Highlands.

6. With regard to these matters, (a), it is generally admitted that European agriculture must remain, at any rate for some years to come, the mainstay of Kenya's economic position. To assist the two thousand white agriculturists to maintain

grievances; Government is accused of (a) doing nothing to help the farmer on the land; (b) failing to reduce the heavy burden of indebtedness, public and private, under which the country labours; (c) maintaining, from the proceeds of excessive taxation, a costly administrative machine out of all proportion to the country's needs and capacity; (d) resisting the white settler's legitimate aspirations to a greater control of the Colony's affairs, and his desire to be joined in a closer union with the neighbouring territories of Tanganyika and Uganda. Finally, Government is blamed for a culpable delay in securing statutory recognition for the "privileged position" of Europeans in the Kenya Highlands.

6. With regard to these matters. (a), it is generally admitted that European agriculture must remain, at any rate for some years to come, the mainstay of Kenya's economic position. To assist the two thousand white agriculturists to maintain

their out-put of exportable products Government has taken every step that was reasonable and that lay open to it with its severely limited resources.

A large part of the available cash balances has been advanced on very easy terms to assist the agriculturist: and cheap capital has been provided to the extent of £500,000 through the agency of the Land Bank.

The Colonial Development Fund has advanced no less than £125,000 on generous terms to assist a number of projects which will be of direct benefit to European industry in Kenya. The Customs tariff is so adjusted as to provide every legitimate protection and assistance to the settler (and indeed contend that it goes too far in this direction), and the same may be said of the rating system of the railway.

The settlers are now asking for further assistance from the Land Bank, and their proposal has been recommended by the Administration. I am at present examining with the Chancellor of the Exchequer the possibility of providing under suitable conditions a further £500,000 for the funds of that Institution.

77

If this can be arranged, it will not only be of considerable economic assistance to deserving settlers, but will have a substantial political value.

(b). The public debt of Kenya is admittedly onerous, but the greater part of it is a charge on the Railway. When the loans were raised the terms were not excessive and indeed the first loan (six per cent) was not a market success. An exhaustive analysis carried out with the conjunction of the Treasury and the Bank of England has shown that relief before the dates when the various loans mature can be obtained only by imposing a wholly disproportionate capital burden on future generations, or by frank repudiation. Similarly, the individual producer cannot lightly escape from the burden of mortgages and other private obligations gaily incurred in more prosperous days. The remedy suggested for this and other handicaps by a majority of the Convention is the desperate device of devaluing the local currency in terms of sterling. There is

nothing that we can do to meet the colony's and settlers' difficulties under this head.

(c) The administrative machine - a legacy from more prosperous times - is admittedly expensive; though even now the Kenya Civil Servant is treated less generously than his colleagues in the other British territories in Africa. But, since the beginning of the depression, the costs of Government have been repeatedly overhauled and very substantially reduced; and my predecessor recently appointed Sir Alan Pim (whose name was suggested by the settlers themselves) as an independent Commissioner to undertake the double mission of enquiring into the expenses of administration and advising on the possibility of taxation relief. There is evidence that this appointment has done something to mollify the settlers, though whether Sir Alan Pim can make any practical recommendations which will be helpful remains to be seen. Even if he cannot, there will be advantage in having a report to that effect from an independent

78
nothing that we can do to meet the colony's and
settlers' difficulties under this head.

(c) The administrative machine - a legacy
from more prosperous times - is admittedly expensive;
though even now the Kenya Civil Servant is treated
less generously than his colleagues in the other
British territories in Africa. But, since the
beginning of the depression, the costs of Government
have been repeatedly overhauled and very substantially
reduced; and my predecessor recently appointed
Sir Alan Pim (whose name was suggested by the settlers
themselves) as an independent Commissioner to undertake
the double mission of enquiring into the expenses of
administration and advising on the possibility of
taxation relief. There is evidence that this
appointment has done something to mollify the settlers,
though whether Sir Alan Pim can make any practical
recommendations which will be helpful remains to be
seen. Even if he cannot, there will be advantage
in having a report to that effect from an independent

authority virtually of the settlers own choosing.

(d) with regard to the questions of greater control by the settlers of the Colony's affairs, and closer union with the neighbouring territories, my predecessor recently addressed a despatch to East Africa in which he rejected in reasoned terms the claims put forward by a conference of "unofficials" of Kenya and Tanganyika. He based his answer on the arguments and conclusions of the Joint Select Committee, of 1961. I have reason to know that the settlers in at any rate Kenya do not consider the question of closer union as one of immediate importance, and they are not likely therefore to make difficulties over this matter.

Finally I come to the question of the European Highlands. It is over this that a storm may possibly break. The settler has been assured, and I am prepared to repeat the assurance, that there is no present intention of departing from the administrative practice of the last thirty years, whereby the Highlands are reserved exclusively for white settlement.

But the Morris Carter Commission in its report made two further recommendations regarding this territory. ^{They first defined geographically the area} ~~They suggested that the~~ geographical boundaries of the Highlands in which ^{should} ~~should~~ and, secondly, recommended that those Europeans ^{enjoy a "privileged position" / should be} defined by an Order-in-Council ^{and that this Order} in Council should give statutory effect to the administrative practice referred to above. ~~The settlers are pressing for the adoption of both these recommendations.~~

geographical boundaries should be

In the White Paper of 1964 - (Cmd. 4800) it was stated that His Majesty's Government accepted the Commission's recommendations in regard to the boundaries of the Highlands, and approved the recommendation that the boundaries should be declared by Order-in-Council, in order to give added sense of security in that these boundaries could not thereafter be altered by local Ordinances.

^{There is nothing in this which could be construed} ~~to do and interpret this as meaning that we should~~ as an undertaking that H.F.O. should meet the settlers' ~~necessity adopt both the recommendations of the~~

demand should be met in full
~~Mr. Morris-Carter~~ Commission, and Sir Philip

Ounliffe-Lister who was Secretary of State when the White Paper was published agrees with me.

I would propose to adopt the ^{Carter} ~~Secret~~ recommendations but otherwise not to go beyond a reaffirmation of the time-honoured administrative practice. In my view this would meet the legitimate claims of the European settlers for security in the Highlands.

To go further and give statutory effect to the administrative practice would not only antagonise a large body of responsible opinion in this country; it would also meet with most determined resistance from the Government and people of India, who are interested from the point of view of the Indians in Kenya. Sir Joseph Bhera raised the matter when he was in this country earlier in the year, and my predecessor had conversations regarding it with the Secretary of State for India. Whilst it would appear that the Indian people and Government are prepared

prepared to acquiesce in the existing practice, they would denounce any statutory perpetuation of what they regard as racial discrimination. I need not go into the arguments which they bring forward, which seem to me to have great force.

Apart from this, it could only be effected at the expense of violating the Convention of St. Germain and other international obligations.

6.

The reaction of the unofficial community in Kenya to an announcement conveying that their wishes in regard to the Highlands cannot be fully met is not difficult to predict. The Governor (who can be relied upon to handle any situation which arises with patience and determination) advises me that they are feeling extremely strongly on the question, ^{and that} the only uncertainty attaches to the lengths to which they will be prepared to go in their opposition. There is wild talk in some

some quarters of such measures as organized passive resistance to taxation (an example which other elements in the Colony might not be slow to follow). Before announcing the decision which we have reached on the matter, and which I am convinced is inescapable, I have thought it well to acquaint my colleagues of the consequences which it may arouse. I would add that I do not propose to make any announcement until early next year, when the troublesome Budget debated in the Kenya Legislative Council is over, Sir Alan Pin has finished his enquiries, and I may have been able to take action in other matters, e.g., regarding the Land Bank, which will help to sugar the settlers' pill. But in the meantime I ask for the Cabinet's authority to prepare the necessary Order-in-Council on the limited lines which I have proposed above.

Affairs in Kenya.

Mr. Pland 7.10.
S. in Cabinet 7.10
S. in 1st Div 28/10
S. in 2nd Div

1. The perennial antipathy between Government and settlers ^{in Kenya} shows every sign of becoming acute in the near future, and unless the situation is carefully handled ~~I fear~~ ^{there is a} the possibility of ~~serious~~ ^{serious} critical trouble.

2. It cannot be too strongly emphasised that the root of the discontent is economic. Like his ~~kinsmen~~ ^{fellows} in every agricultural country, the European farmer in Kenya has been hardly hit by the fall in world prices. In 1933 he received only £38 for as much of his four main products as would have realised £100 in 1928, and the value of some commodities - notably coffee - ~~has~~ ^{has} since still further declined. In addition the East African farmer has had his peculiar troubles in the shape of locust ravages, and drought, which have prevented him from compensating by increased ^{production} ~~quantities~~ for the fall in values of his produce. He has looked with a jealous eye at his neighbours in South Africa, where the agriculturist has been heavily subsidized out of the surplus profits from the Rand, and even ^{at} the farmer in the United Kingdom, who has received a measure of Governmental support impossible in a country like Kenya which

which has no resources other than those derived, directly or indirectly, from the depressed agricultural industry itself.

3. It is ~~no matter~~ ^{not surprising} for surprise, therefore, that, with ^{some} fortunate exceptions, the Kenya settler feels that his hopes ^(that ~~of chances even~~ are small) are ruined and his hopes ~~for recovery~~ ^{are small}; nor is it without parallel in ^{other} ~~these~~ ^{and} times or countries

that he should blame Government for the acts of God, and find an outlet for his ^{despair} ~~resentment at the sorry~~ ~~schemes~~ ^{of things} ~~entire~~ in levelling bitter charges of apathy and malevolence against Government House and the Colonial Office.

of assured prosperity of making his fortune
I am convinced that much of this agitation is the work of a clever and very vocal minority who unfortunately control the local Press, and whose views receive a publicity which is not altogether warranted by their real importance.

4. The settlers' ~~These~~ widespread feelings of grievance received emphatic expression at a recent meeting of the Convention of Associations (sometimes known as the Settlers' Parliament) in Nairobi. ^{It is desirable to settlers' principal grievances} ~~Government was~~ ^{is} accused of ^(a) doing nothing to keep the farmer on the land, ^(b) ~~or~~ ^{failings} to reduce the heavy burden of indebtedness, public and private, under which the country labours, ^(c) ~~and~~ maintaining, from the proceeds of excessive taxation, a costly administrative machine out of all proportion to

The delegates at the Convention have endorsed a statement drawn up by their leaders containing a long list of specific complaints and demands. With most of these I had not trouble my mind. In the case of some of them I may be able to take action which, ~~without~~ ^{with} ~~some~~ ^{some} ~~of~~ ^{of} the ~~settlers'~~ ^{settlers'} ~~cases~~ ^{cases}, and which may be ~~of~~ ^{of} ~~the~~ ^{the} ~~sympathy~~ ^{sympathy} with which H.M.G. regard their difficulties. I feel that this is necessary in view of the deep disappointment which probably awaits the settlers on the question with which this paper is principally concerned.

the

needs and, (d)
 the country's capacity; to support, ~~of~~ resisting the
 white settler's legitimate aspirations to a greater
 control of the Colony's affairs, and his desire to be
 joined in a closer union with the neighbouring
 territories of Tanganyika and Uganda. ^{F (Government is named for)} and finally, ~~of~~ a
 culpable delay in securing statutory permanence for the
 Kenya
 "privileged position" of Europeans in the Highlands.

6.

with regard to ^{the welfare (A)} ~~the high position of farmers~~, it is generally admitted
 My colleagues may be interested in a brief

~~analysis of these charges.~~

~~(A)~~ that European agriculture must remain, at any rate
 for some years to come, the mainstay of Kenya's
 economic position.

~~(B)~~ To assist the two thousand white agriculturists
 to maintain their out-put of exportable products
 that was reasonable and that lay open to it with its severely limited
 resources. Government has taken every step compatible with its
 severely limited resources, ^{and} cheap capital has been

A large part of the available cash balances has been advanced on very easy terms to assist the agriculturist:

provided to the extent of over £500,000 through the
~~the latter are seeking for further assistance from the Loan Board, and~~
 agency of the Land Bank, ~~and are at present examining~~
~~of the Eschaper~~ ^{under suitable conditions}
 with the Chancellor, the possibility of providing a
 further half million pounds for the funds of that
 Institution. The Colonial Development Fund has

advanced

The settlers are now asking for further assistance from the Land Bank, and their proposal has been recommended by the administration. I am at present examining with the Chancellor of the Exchequer the possibility of providing under suitable conditions a further £500,000 for the funds of that institution. If this can be arranged, it will not only be of considerable assistance to deserving settlers, but will have a

substantial political value.

advanced no less than £132,000 on generous terms to assist a number of projects which will be of direct benefit to European industry ^{in Kenya}. The Customs tariff is so adjusted as to provide every legitimate protection and assistance to the settler, and the same may be said of the rating system of the railway. ←

(some indeed contend that it goes too far in this direction);

were raised the terms were not excessive and indeed the first loan (as per cont.) was not a market success.

(b) The public debt of Kenya is admittedly onerous, but the greater part of it is a charge on the Railway when the loans judged by present day standards. An exhaustive analysis carried-out with the conjunction of the Treasury and the Bank of England, has shown that relief before the dates when the various loans mature can be obtained only by imposing a wholly disproportionate capital burden on future generations, or by frank repudiation. Similarly, the individual producer cannot lightly escape from the burden of mortgages and other private obligations ^{gaily} incurred in more prosperous days. The remedy which was suggested for this and other handicaps by a majority of the Convention is the desperate ~~device~~ ^{There is nothing that} of devaluing the local currency in terms of sterling. ~~The ingenious we can do to meet the settlers' and Colony's difficulties under propounders of this scheme overlook the fact that, this head.~~

~~though the local producer might temporarily obtain~~

~~higher prices for his exports, the level of his external charges (imports, oversea debt service, etc., etc.) would be proportionately increased.~~

~~(c)~~ (c) The administrative machine - a legacy from ~~more prosperous~~ happier times - is admittedly expensive; though even now the Kenya Civil Servant is treated less generously than his colleagues in the other British territories in Africa. But, since the beginning of the depression, the costs of Government have been repeatedly overhauled and very substantially ^{reduced.} ~~cut down~~; and ~~I have now~~ ^{my predecessor recently} appointed ~~as an independent Commissioner~~ Sir Alan Pim ^{as an independent Commissioner} (the name was suggested by the settlers themselves) to undertake the double mission of enquiring into the expenses of administration and advising on the possibility of

taxation relief. There is evidence that this appointment has done something to ~~relieve~~ ^{relieve} the settlers, though whether Sir Alan Pim can make any recommendations which will helpness be helpful ~~remains~~ ^{remains} to be seen. Even if he cannot, it there will be advantage in having a report to that effect, from an independent authority ^{officially} ~~officially~~ of the settlers own.

~~It is perhaps remarkable that a body of men, whose conduct of their private affairs has not been (A) with regard to the questions of greater Economic Control, of the Colony's affairs, and their union with the neighbouring territories, my predecessor recently conspicuous for success should aspire to control the address a dispatch to East Africa in which ^{in regional terms} ~~in regional terms~~ he rejected the claims put forward by a conference of "unofficials" of Kenya and Tanganyika. ~~finances of the public - including the Indians and the three million native Africans.~~ ^{He had his answer on the arguments of the and conclusions of the} ~~The Joint Select Committee~~ I have reason to know that the settlers of Kenya ^{at any rate} ~~do not~~ consider the question of closer union as one of immediate importance of 1931, advised against any change in the Colony's and they are not likely therefore to make difficulties over this ~~constitution.~~~~

I don't think this is a point worth making. It is not altogether fair. Better men than the Kenya settlers have gone under through no fault of their own. J.P. 28/10.

(Cont. 4580) it was stated that A.H.G. ~~approved~~ accepted the Commission's
recommendation in regard to the boundaries of the Highlands, and approved
the recommendation that the boundaries should be declared by Order - in
Council, in order to give an added sense of security in that these
boundaries could not thereafter be altered by local Ordinance.

A

But the Morris later Commission in its report made two further recommendations regarding ~~the Highlands~~ ^{the territory}. They suggested that the geographical boundaries of the Highlands should in which Europeans enjoy ~~the~~ ^a "privileged position" should be defined by ^{an} Order in Council, and that the Order in Council should give statutory effect to the administrative practice referred to above. The settlers are pressing for the adoption of both these recommendations.

In the white paper of 1934...

I do not interpret this as meaning that we should ^{necessarily} adopt both the recommendations of the Morris later Commission, ~~as~~ and Sir Philip C. L. who was Secretary of State when the white paper was published agreed with me. I ~~propose to~~ ^{would} propose to adopt the first recommendation, but otherwise not to go beyond ~~to~~ a reaffirmation of the time-honoured administrative practice. In my view this would meet the legitimate claims of the European settlers for security in the Highlands.

To go further and give statutory effect to the administrative practice would not only antagonise a large body of responsible opinion in this country, it would also meet with most determined resistance from the Government of and

(Who are interested from the point of view of the Indians in Kenya. people of India,) Sir Joseph Bhoré raised the matter when he was in this country earlier in the year, and my predecessor had conversations regarding it with the secretary of state for India. Whilst it would appear that the Indian people and Government are prepared to acquiesce in the existing practice, they would denounce any statutory perpetuation of what they regard as racial discrimination. I need not go into the arguments which they bring forward, which seem to me to have great force.

Apart from the ... Convention of St Germain ...

~~constitution, and nothing has occurred in the last four years to detract from the prudence of that advice.~~

(f) Similarly I feel sure of my colleagues' support in affirming that the reasons ^{which} ~~that~~ led the Joint Select Committee to reject proposals for Closer Union remain substantially unimpaired. Apart from the legal difficulties, which may prove insuperable, I have had ^{recent} ~~reason~~ and convincing evidence that closer union would be unpalatable not only to the Europeans in Uganda but to the Indian population of all three territories, ~~apart altogether from what the native population may feel.~~

(g) Finally I come to the question of the European Highlands. The settler has been assured, and I am prepared to repeat the assurance, that there is no present intention of departing from the administrative practice of the last thirty years, whereby the Highlands ~~(whose geographical boundaries are shortly to be safeguarded by an Order in Council)~~ are reserved exclusively for white settlement. [To give statutory effect to this practice by Order in Council would, I am convinced, not only antagonise a large body of responsible opinion in this country; it would meet with the most determined resistance from the

It is over and that a storm may possibly break from the Governor, Sir Joseph Byrne, is convinced that it will produce an agitation of

Omit and insert A

Government and the people of India who, while prepared to acquiesce in the existing practice would ~~accept~~ ^{demand} the statutory perpetuation of what they regard as a racial slur; and, last but not least, it could only be effected at the expense of violating the Convention of St. Germain and other international obligations.]

6. ^{an announcement conveying} ~~The decision~~ that their wishes in regard to the Highlands cannot be ^{fully} ~~met~~ ^{met} ~~has not yet been conveyed to the~~

^(who can be relied upon to handle any situation which arises with patience and determination) of the unofficial community in Kenya. ^{The Government wishes me that they are feeling extremely strongly on the question, and that} Their ~~reaction to it is~~ ^{is not difficult to predict.} The only uncertainty attaches ^{in their opposition-} to the lengths to which they will be prepared to go.

There is wild talk in some quarters of such measures as organised passive resistance to taxation (an example which other elements in the Colony might not be slow to follow). ^{announcing any the} Before ~~publishing my~~ ^{publishing my} ~~decision~~ ^{decision} ~~which~~ ^{which} I am ^{would have reached on the matter, and which} convinced is inescapable, I have thought it well to

acquaint my colleagues of the consequences which it may ^{I would add that I do not} arouse ~~in inviting their support,~~ ^{propose to make any announcement until early next year, when the Budget} I should ~~add that~~ ^{add that} ~~propose to make any announcement until early next year,~~ ^{propose to make any announcement until early next year,} ~~when the Budget~~ ^{when the Budget} ~~Sir Joseph Byrne, the present Governor, is a man on whom~~ ^{Sir Joseph Byrne, the present Governor, is a man on whom} ~~debates in the Kenya Legislative Council will be over, Sir Alan Pim has~~ ^{debates in the Kenya Legislative Council will be over, Sir Alan Pim has} ~~present~~ ^{present} I confidently ~~rely to handle with skill, patience and~~ ^{rely to handle with skill, patience and} ~~finished his enquiries, and I may have been able to take action in other matters,~~ ^{finished his enquiries, and I may have been able to take action in other matters,} ~~determination any situation that may develop in the~~ ^{determination any situation that may develop in the} ~~and in~~ ^{and in} ~~c.g. regarding the Land Bank, which will help to sugar the settlers' pill.~~ ^{c.g. regarding the Land Bank, which will help to sugar the settlers' pill.} ~~the~~ ^{the} ~~Colony.~~ ^{Colony.} ~~The measure I would ask my colleagues' and ask for the Cabinet's~~ ^{The measure I would ask my colleagues' and ask for the Cabinet's} ~~authority to prepare the necessary order in Council on the limited lines~~ ^{authority to prepare the necessary order in Council on the limited lines} ~~which I have proposed above.~~ ^{which I have proposed above.}

has to be done
in one case
but is a personal
arrangement (for which
Sigsbee is not to blame)
which will not be
mentioned particularly
definitely.