

1931.

Kenya.

No. 17211

SUBJECT

CO 533/413

Indian Grievances.

(Memorandum by Mr. A. B. Patel.)

Previous

Subsequent

A. B. Patel

30th May 1931

This memorandum containing statement of  
complaints regarding segregation,  
Education, Medical & Academic, App. to Higher  
Posts & other matters in which racial  
discrimination is alleged. Encls. also copy of minutes  
submitted to Govt. Secy in Ahmednagar.

The segregation is being  
dealt with as 17173/31.

J. H. Allen

28/6/31

See Mr Paterson's minute of

25 June as 17173/31.

Offs. Secy to Govt.

J. H. Allen

27/6/31

A. C. Paterson

27.31

~~To A. C. Paterson (1 answer d)~~ 10 JUL 1931  
DESTROYED UNDER STATUTE

~~10 - Govt. Secy - (Encls 1 & 2) - Contd - 15 JUL 1931~~  
DESTROYED UNDER STATUTE



must in <sup>the</sup> present circumstances wait on an improvement in the financial position. In so far as Mr. Patel's representations relate to the proportionate expenditure on European and Indian education, that is a matter which will be covered by Lord Moyne's enquiry.

3. Indians for higher services.

At the end of page 4 the Governor suggests that responsibility rests with the Secretary of State, since appointments of the nature of District Officer, Assistant Treasurer, Superintendent of Police or Prisons, or the like, are in his hands, and applications received locally are submitted to him.

This question was taken up with the Governor last year, and in a confidential semi-official letter to Sir Joseph Byrne of the 30th November it was agreed that it would at the moment serve no practical purpose to attempt to define a policy for the future. The letter added that the important thing is to see that the door

is not closed against the qualified Asian, even though it may be years, as Sir Joseph Byrne suggested, before he is ready to walk in.

As regards unfair discrimination, Mr. Patel's remarks were quite brief. He drew attention to the cases of trial by jury, the issue of licences for firearms, and appointments as Justices of the Peace, mentioning that there were various other examples on the Statute Books, and urged that the legislation of the country should be revised and amended in order to abolish these anomalies.

17/12/31

*2/26  
17/12/31  
18/12/31  
20/12/31*

As regards trial by jury, it was decided in December last that this question should sleep until someone raised it again. That, of course, was several months later than Mr. Patel's representations.

I have pointed out on other papers that we now have three long despatches from the Governor dealing with various representations made by natives and Arabs, as well as the Indian witnesses, which embraced a vast number of subjects, and in regard to which it is really impracticable to undertake to return comprehensive and considered replies. In this particular case Mr. Patel was informed that his memorandum was being referred to the Governor for his observations. No promise of a reply was made. If replies are returned in one case it will be necessary to do so in all, and as I have suggested elsewhere, I think these despatches should be regarded rather as written for the Secretary of State than as a basis for considered replies, although a careful note of the various matters should be made on <sup>the</sup> ~~the~~ <sup>the</sup> ~~the~~ relative correspondence.

On the file relating to the native representations I have suggested that no official replies should be made to these despatches, but that semi-official letters should be sent to the Governor in the terms shown in the attached sheet

~~Handwritten scribbles and lines~~

*See  
18/12/31  
Sir R. ...  
Saw ...  
file ...*

*18/12/31  
The ...  
15/1/32  
18/1/32*

26015/31

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O. to C. J. Byrne — 12-3-32  
(Off. on 12/01/32 B)

(See No. 3 (para 3) on 12/07/32  
on 6. 12. 32. 12. 32. 12. 32. 12. 32.)

No. 4

17211/32K  
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6

2nd May, 1932

my dear Byrns,

The Secretary of State has received your despatch No. 690 of the 4th December, 1931, and also your despatches Nos. 178 of the 7th December, 1931, and Confidential No. 2 of the 6th January, in which you commented on the representations made at the interviews granted to the Arab, African and Indian witnesses who gave evidence before the Joint Committee. The Secretary of State greatly appreciates the care and trouble which has been taken over these despatches but he does not feel called upon to return comprehensive replies to the various representations.

In so far as it may be necessary to pursue any of the matters this will be done in separate correspondence or in other ways - for example, the native representations in regard to

land

SIR JOSEPH BYRNS, K.C.M.G., K.B.E., C.B.,

land will fall within the scope of the Carter  
Commission which has recently been appointed.

Yours sincerely,  
W. L. ...

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If the above views are accepted I think that instead of a formal acknowledgment with an expression of thanks it would be better that a semi-official letter should be sent to the Governor saying that the Secretary of State has received this despatch (and also the despatches as to Indian and Arab representatives), and that he greatly appreciates the care and trouble which has been taken over them, but does not feel called upon to return comprehensive replies to the various representations, and that in so far as it may be necessary to pursue any of the matters this will be done in separate correspondence or in other ways, for example, the native representations in regard to land sales within the scope of the Commission now to be appointed.

KENYA

No. 2

CONFIDENTIAL.



GOVERNMENT HOUSE,  
NAIROBI,  
KENYA.

6<sup>th</sup> January, 1932.

Sir,

I have the honour to refer to Lord Passfield's despatch No. 491 of 15th July and to submit the following observations upon the Memorandum by Mr. A. B. Patel, dated 30th May, 1931, on certain matters affecting Indians in Kenya. Generally in this connection reference is invited to my predecessor's despatch No. 661 of the 14th October, 1930, and Confidential No. 144 of 15th Oct., 1930.

I. Segregation in Townships.

The question of Segregation in Townships is being dealt with in a separate despatch.

II. Education.

The implications of Mr. Patel's reference to "racial considerations" are not clear. It must of course be accepted that the standards of living and of education in the case of Europeans and Indians are essentially different.

It has never been disputed that the principle of providing for education by means of an education poll tax is unsatisfactory, and the Indian Community was informed, as far back as 1927, that Government would be prepared to consider any alternative form of taxation for educational purposes. No satisfactory alternative

THE RIGHT HONOURABLE

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

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has, however, yet been discovered.

As stated in my despatch No. 582 of the 1st October, the Liquor Consumption Tax has now been embodied in the Customs tariff, but the general position regarding the allocation of revenue for educational purposes remains the same.

The position in regard to the allocation between the two races of the revenue derived from these sources has already been explained in Sir Edward Grigg's despatch No. 386 of the 14th June, 1930.

Your reference in this connection is also invited to Chapter III of the Education Department Annual Report for 1930, paragraphs 12 to 16 on pages 20 and 21, from which it appears that while the European community is providing a little more than sufficient revenue by means of special taxation to meet the agreed cost of education, the contribution of the Indian community falls short of the amount required by some £1,000. Even the inclusion of the items mentioned in paragraph 16, on page 21, of the Annual Report would involve no invidious comparison.

In regard to Mr. Patel's allegations concerning grants-in-aid, I would observe that all Indian non-Government schools which have applied for grants (and this includes almost every Indian school in the Colony) were receiving assistance at the rate of £3.10/- per annum in respect of each pupil, based on the average attendance. This does not apply to three schools the authorities of which applied too late for the inclusion of their grants in the 1930 Estimates, and you will be aware that the need for economy has necessitated a reduction of the grant to £3 per head.

I am unable to acquiesce in Mr. Patel's observation in regard to general inadequacy in the matter of educational facilities for Indian children in this Colony, especially in comparison with those provided in India.

In 1930 there were ten Indian Government schools and

thirty aided schools in the Colony. These schools constitute a system for boys from early infancy up to the standard of the Intermediate Arts Examination of London University. Two large secondary schools are equipped for science teaching. A new Government Girls' School at Nairobi and a Mixed Primary School at Eldoret have been opened during 1931. It is estimated that, except for a few scattered children along railways and roads, almost all Indian children in Kenya are within reach of schools.

It is true that a private individual expended a large sum of money in presenting a school building to his community at Embasa, but it should be observed that all the recurrent expenses of this school are borne by Government. It is also true that an aided school has recently been presented with a plot of land in the same town.

Credit must also be given to the Indian community for the erection of many buildings for small schools in the Colony, but the fact should not be overlooked that buildings for similar schools have also for the most part been provided by Europeans for their children on the Eldoret Plateau.

I desire, however, to emphasise the fact that this Government has not been ungenerous in the provision of buildings wherever schools have reached the stage of development at which their permanence is assured. Approximately £60,000 has been spent on the Boys' Secondary School at Nairobi which has been erected with a hostel on a valuable site of some 40 acres in the town itself. The groups of Government buildings in Nairobi have also been acquired by the Boys' Primary School. A Girls' School in Government hands has also recently been opened at Embasa. Grants have been given for sectarian buildings in the same town. At Embasa a school building is erected by Government, and at Embasa also in the best part

Part of the town has been reserved for future buildings. At Thika, Fort Hall, Lamu, and Nakuru adequate buildings are rented by Government, and at Eldoret Government supplied the materials and £400 for the school building which was erected by the Indian Community. Similar provision was made by Government in regard to the European School at Nanyuki. At Machakos Government rents a building as a temporary measure, but provision has twice been made and is being repeated in 1932 for the erection of the necessary building. The delay in this respect may be attributed to the difficulty in securing a proper title to the site until the question of townships in Native Reserves which is now under consideration in reference to the provisions of the Native Lands Trust Ordinance, 1930, has been settled.

It must be admitted that the buildings for European schools are, in general, larger than those provided for Indians, but this must be attributed to the fact that, owing to the scattered nature of the European population, provision must be made for a larger number of boarders.

In regard to Mr. Patel's reference to the Government Indian Girls' School at Mombasa, your reference is invited to Chapter VIII on page 33 of the Education Department Annual Report for 1930. A site for a new building has now been secured in a central position, approved by the Indian Community.

In this connection reference is invited to Sir Edward Grigg's Confidential despatch of the 17th June, 1930, containing recommendations for further loan proposals, and to Lord Passfield's despatch Confidential (3) of the 9th March, 1931. Provision was made in the former despatch for £20,000 in respect of buildings for the Indian Girls' School at Mombasa, but in view of the qualifications which attached to the approval of this provision it has become necessary in

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view of the financial position to defer further consideration of this work until the revenue outlook is brighter and the position in regard to surplus balances improves.

In regard to Mr. Patel's comparison of the standard of education for boys and girls, very careful consideration has been given by this Government to the question of the education of Indian girls. I am advised that the Government School at Mombasa has proved a great success, and that young girls are admitted to outlying mixed primary schools.

In Nairobi various sects have their own schools, each with its strong religious bias and with a special emphasis on the vernaculars desired. These receive grants from Government.

The more advanced Indians have long advocated the foundation in Nairobi of a Government School for Indian Girls in order to avoid sectional influence, and this Government was assured that such a school would attract a large number of pupils from the sectional schools. As I have stated above, such a school has now been opened, but only thirty pupils have been enrolled.

The question of the reduction of fees has received consideration on several occasions, but has been rejected on account of the loss of revenue involved. I have already remarked upon the fact that, unlike European education, Indian education is not fully paid for by the special taxation derived from the Indian community.

The fees charged for Indian girls are:-

Sub-Standards A & B	Shs. 2/-	per mensem.
Standards I & II	" 4/-	" "
Standards III & IV	" 6/-	" "
Above Standard IV	" 8/-	" "

III. Medical Facilities.

Mr. Patel is incorrect in stating that "except for a limited extent in Mombasa no medical facilities have been provided for Indian indoor patients". Accommodation has been erected especially for Indian indoor patients at Nairobi, Eldoret, and Kisumu. At Nakuru one ward is reserved for the accommodation of Indians. Further, Indians are admitted to Native hospitals throughout the Colony at an inclusive charge which is insufficient to cover the actual cost of treatment. You are aware that but for the general financial stringency action would have been taken to construct further hospital accommodation from Loan funds.

IV. Indians for Higher Services.

It is not possible to determine accurately what Mr. Patel has in mind when he speaks of "superior posts". Presumably he contemplates such appointments as carry first-class ocean travel privileges such as those of District Officers, Assistant Treasurers, Superintendents of Police or Prisons and the like. If that is so I would stress the fact that, apart from there being no Indians in the Public Service of this Colony at the present time who possess the qualifications necessary to fill this kind of appointment satisfactorily, local conditions are such that the appointment of Indians to the higher posts, for instance, in the Administration would lead to difficulties which would, I am convinced, prove to be insurmountable. The natives have been accustomed to regard Indians with little respect, and however excellent the abilities of (e.g.) an Indian District Officer might be, I am convinced that the attitude of the natives would render it impossible for him to discharge his duties effectively. It is, however, the case that appointments of this nature are in your hands and applications received locally are submitted to you.

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With regard to appointments to clerical posts Mr. Patel indicates his opinion to be that there is in this Colony a definite tendency to prefer the appointment to clerical posts of Europeans or foreigners, I imagine him to mean Goans, & Indians. In clerical appointments the principle which is followed is to obtain efficiency of service as economically as possible. No preference is given to any race.

Different leave and passage regulations apply to the European and Asiatic officials, but the differentiation is, as you are aware, not based on racial grounds.

#### V. Unfair Discrimination.

Trial by Jury. I would refer you to Mr. Moore's despatch No. 90 of 11th February, 1931, in which the operation of the Jury system in this Colony is discussed. The difficulties involved in the extension of the Jury system to Indians are there fully set out, and in para. 9 of the despatch Mr. Moore recommended that the question should be held in abeyance until the Joint Committee of Parliament had reported, on account of the fact that it is essentially a political one, intimately connected with the Common Roll controversy.

In a prior EOC of their Report the Joint Select Committee of the Chamber Union in East Africa state that under present conditions the adoption of a system of Common Roll representation is impracticable, and in view of the opinions expressed by Mr. Moore as to the difficulty involved in the extension of the Jury system to Indians, with which opinions I am in agreement, I do not consider the extension to be practicable at the present time. I am satisfied that under the existing system the Indian community suffers no hardship or injustice.

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Issue of Licences to carry firearms. No case of unfair discrimination between Europeans and Indians in regard to the issue of licences for firearms has come to my notice. The law on this subject is administered in accordance with the principles laid down in the instructions of which a copy was an enclosure to Sir Edward Grigg's despatch Confidential No. 33 of 1st March, 1930. You will observe from these instructions that though it is laid down that licences to possess arms of precision should be issued with caution in regard both to Europeans and Asiatics they contain no provision for discrimination between the two races, such as is suggested by Mr. Patel in his memorandum.

Appointments as Justices of the Peace. With regard to Justices of the Peace the position is that though no racial discrimination is made the areas in which they have been appointed are mainly the rural areas of the Highlands in which European settlement predominates. There has been no occasion for the appointment of an Indian Justice of the Peace.

I have the honour to be,

Sir,

Your most obedient, humble servant,

Brigadier-General.  
GOVERNOR.

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I have the honour to be,

Sir,

Your most obedient, humbly servant,

Brigadier-General.  
H. C. R. F. O. R.

ACKD. BY P.C.

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# EAST AFRICAN INDIAN DELEGATION

Telephone Nos. 2071-2080  
20, BALCONY STRAND, LONDON

48, DANES INN HOUSE,  
265, STRAND,  
LONDON, W.C. 2.

30th May, 1931.

RECEIVED  
MAY 31 1931

The Under Secretary of State,  
Colonial Office, S.W.

Sir,

I have the honour to enclose herewith the memorandum I desire to submit to the Right Honourable the Secretary of State for the Colonies, which I should be grateful if you could please to place before him.

I have the honour to be,

Sir,

Your obedient servant,

Atwater

Amund. - 10 JUL 1931  
Copy (in circle) Cas. 491. 15 JUL 1931

ACKD. BY P.C.

16

# EAST AFRICAN INDIAN DELEGATION.

Telephone: HOLBORN 3600.  
Messrs. G. & F. PALOY, 25 STRAND, LONDON

48, DANES INN HOUSE,  
265, STRAND,  
LONDON, W.C.2.

26th May, 1931.

RECEIVED  
MAY 1931

The Under Secretary of State,  
Colonial Office, C.W.

Sir,

I have the honour to enclose herewith the memorandum I desire to submit to the Right Honourable the Secretary of State for the Colonies, which I should be grateful if you could please to place before him.

I have the honour to be,

Sir,

Your obedient servant,

AB Patel

Answered - 140 JUL 1931

Copy (1/2 each) Cas. 297. 15 JUL 1931

Submitted to the Secretary of State for the Colonies

by

A. B. Patel, One of the Kenya Indian Witnesses before the Joint Select Committee on East

Africa.

On general conditions of Indians in Kenya and certain important problems affecting them, I crave leave to refer to the Memorandum submitted by me to the Joint Select Committee on East Africa, copy whereof is attached herewith. But I desire to submit certain important matters agitating the Indian mind which are not strictly within the terms of reference to the Joint Select Committee.

#### SEGREGATION IN TOWNSHIPS.

Command Paper 1922 declared that:

"It may well prove in practice that different races will by natural affinity keep together in separate quarters but to effect such separation by legislative enactments, except on the strongest sanitary grounds would not in the opinion of His Majesty's Government be justifiable. They have, therefore, decided that the policy of segregation between Europeans and Asiatics in Townships must be abandoned".

I regret to point out that the policy laid down in these words has been evaded by the local Government in Kenya under one excuse or another.

A number of plots were sold in 1913 in Mombasa under conditions restricting residence in the buildings erected there on to Europeans only, but without any restriction on the ground of colour or race as to bidding for or acquiring ownership. Later, in the years 1916 and 1918 further plots were sold under conditions restricting both ownership and residence to Europeans.

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only. Thereafter the matter became a burning question and was a subject of bitter controversy between Europeans and Indians. In the words of Command Paper 1927 (issued in the year 1923) with regard to residential segregation, matters have been in suspense for some time and all sales of township plots have been held up pending a final decision on the question of principle involved. These words show very clearly that when the policy of segregation was abandoned in the year 1923 it was meant to cover all possible township land, including the area under reference in Mombasa.

In April 1926, for the first time, Indians learned that the local Government intended to sell 21 residential plots in Mombasa, restricting the sale to Europeans only. On May 15, 1926, a joint deputation of Indians and Arabs waited upon the then Governor, Sir Edward Grigg, and submitted a memorandum on the matter. In reply he read the following extract from a letter from the Commissioner for Lands, Settlement and Local Government, to the Land Officer at Mombasa: "The Secretary of State for the Colonies has now agreed that the sale of plots in the area bounded by Cliff Avenue and Salim Road cannot legally be unrestricted but must be confined to Europeans only".

The words "has now agreed" are very significant, and it can safely be assumed from them that the Colonial Office sanctioned the restrictions only after representations to that end had more than once been made by the local Government.

The Governor then promised to furnish to the deputation the list of the correspondence that had passed betw an the local Government and the Colonial Office, but in spite of repeated requests this promise was never fulfilled.

In reply to Colonel J. Wedgwood, the Secretary of State for the Colonies stated on November 29, 1926, that it should be borne in mind that the sanction for the policy of segregation

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tion to one of non-segregation involved some difficulty, and it was pointed out by the Government, confined that in certain cases the land was legally subject to restrictive covenants entered into under the former system. After careful consideration it was decided that where it was not possible to waive such covenants without incurring legal proceedings entailing the probability of an injunction against the Government it would be necessary to retain the restriction.

Against this argument, I desire to submit the following:

1. The Crown Government has abolished segregation and restriction of sales under similar circumstances:
  2. The various leases made between the local Government and the previous leaseholders and registered in the Land Registry disclose no restrictive covenants incorporated therein concerning the unsold adjoining plots:
  3. The statement in Command Paper 1928 to the effect that sales of township plots were held up pending a final decision on the question clearly shows that the area under reference should have no segregation applied:
  4. In the Appeal relating to this matter (Privy Council Appeal No 3 of 1930) Their Lordships stated, inter alia: "If any restriction be allowed the question whether the restriction be based on racial distinction is obviously one not of law but of policy".
- As it is thus a question of policy, the restrictions on sale on grounds of racial distinction should clearly not be imposed by the local Government in view of the policy enunciated by His Majesty's Government in the year 1928.

I desire specially to draw attention to:

- (i) The fact that in 1913 Indians were allowed to buy and purchase land in that area with restriction to residence by Europeans only.
- (ii) The absence of any particular lease or proclamation by which the local Government incurred obligation to restrict sales to Europeans only.
- (iii) The uncertainty as to the area covered by restrictive covenants.

In some quarters the decision of the Privy Council has been misconstrued and in some it has been misunderstood. The decision obviously lays down that the local Government has power to impose restrictive covenants if it so desires. That means that the local Government may legally, if it so desires, restrict the sale to Indians only in the area under question. But the decision does not mean that the Local Government is legally bound to restrict the sales.

In my respectful submission it is clearly a matter of policy, and the local Government is not and should not be free to restrict the sales to Europeans only in view of the emphatic decision by His Majesty's Government in 1923.

#### EDUCATION

Racial considerations have been allowed to be introduced into the sphere of education also, and Indian protests against this policy have remained unheeded.

There are two educational taxes, one direct, and the other indirect. The direct tax is levied separately on Indians and Europeans. The indirect tax is collected by means of a tax on liquor. It is supposed to be spent on European and Indian education in proportion to the contribution that each community respectively makes.

In the first place the tax is objectionable in prin-

principles in the second place the percentage of the tax placed to the credit of each community is determined in an arbitrary manner; at all events the basis of the calculation for apportioning the revenue has never been explained. Indians feel that their rightful share of the revenue from the tax is much greater than that which has been assigned to them so far. It should be noted that many schools in small centres up country do not even receive grants in aid from the Government.

Apart from the inadequacy in the matter of educational facilities, in particular I desire to submit two points:

- i. In the building programme undertaken by the local Government in regard to school buildings during the past five years, the Indian side has been conveniently neglected. It is true that a fine High School building and boarding house have been erected for Indians in Nairobi; but in comparison with what has been done for Europeans, and having regard to the respective contributions to direct and indirect educational taxation, the Indian side has received a most inadequate share of Government assistance.

In 1923, an Indian gentleman in Mombasa donated a building costing £50,000 for Government Indian High School; and last year another gentleman erected a building costing some £7,000 as a grant-in-aid High School. The local Government promised in 1925 to erect a building for a Government Indian Girls' School in Mombasa: land was reserved for the purpose in 1926, and in that year the then Governor, Sir Edward Grigg, announced in the Legislative Council that the building would shortly be erected. We were given to understand that £10,000 had been allotted from the Loan Funds for that year for this purpose: but that allocation disappeared, and for two or three successive years, £4,000 was included in the annual budget for the cost of the building. On various occasions, Indian deputations waited upon the Governor and on the Director of Education

in order to urge the necessity for such a school, and the Indian School Committee also raised the matter several times but up to the present Indians have no information as to when the building is likely to come into existence. We have received several intimations over a period of years that the matter is in hand. It seems likely that it will remain so for a long time to come.

ii. The education of girls is in the most elementary stage, and compared with that of boys is very backward. I admit at the outset that Indians themselves are to a great extent responsible for that position. But the local Government has given no due consideration to any special measures that have been recommended by Indian leaders, institutions and School Area Committees for adoption in order to encourage the education of girls. For example, we recommended a reduction in the very high fees charged: but this suggestion has evidently not been considered by the local Government.

#### MEDICAL FACILITIES

Except for a limited expenditure, no medical facilities have been provided for Indian Indian patients. Hospitals for the exclusive use of Europeans are maintained from the public revenues in various places, while no attention is being given to the pressing demands of the Indian community in this matter.

#### INDIANS FOR HIGHER SERVICES

Although no statutory restrictions exist, no Indian has yet been promoted or appointed to any superior post: there is a tendency to replace Indians by Europeans, even in clerical posts, which, besides being unfair to Indians, will unnecessarily increase the expenditure of the Colony. There is also an evident tendency to prefer even foreigners to Indian British subjects, and Indians desire to emphasise that they have claims

# PUBLIC RECORD OFFICE

CONTINUED ON NEXT FILM

TOTAL EXPOSURES →

