

1938

38087/2E

C0533/492

38087

CLOSED UNTIL 1970

KENYA

Immigration

C0533/492

Immigration from European States into Kenya

Policy

Previous				
	m: Freston	22	m: Freston	5/1
	Th. Dawe	23	Th. Hibbert	6/1/38
	297	25/11	W. Swangy	15.2.
	309	39/11	96	15.2.
	McParkin		299	17/2
	297	4/12	C.D.	11/2
	309	9/12	299	20/2
	m: Freston	9	98	
	m: Duncan	10/2/38		
	Si. G. Buska	12/12		
	Mr. Freston			
	m: Parn	14/12		
	Si. G. Buska	15		
	m: Hibbert	15/12		
	W. Carter	15/12		
	m: Freston	16		
	Th. Boyd	16/12		
	Th. Dawe	16/12		
	R. Egg	21/12		
	297	21/12		
	309	23/12		
	Mr. Parkin	24		
	309	-		
Mr. Hibbert	28/10			
Mr. 13/1/38	28/10			
Mr. 13/1/38	28/10			
R. 309	✓			
R. Egg	21/10			
399				
m: Parn	9/11			
m: Hibbert	9/11			
m: Begg	9/11			
m: Dawe	4/11			
R. Egg	10/11			
W.T.				

6. J. Immigration 1. Governor 149 _____ 5/8/38 - 2
Submits obs on entry of Jews into Kenya, and
enquires as to measures taken to restrict entry of
doctors into U.K. for study.

2. To Kenya Tel 113 leaf. leafs _____ 25/8/38
Draft on 70314/1/38 (leaf)

3. Kenya Tel 128 _____ 5/9/38
~~RESTRICTED UNDER STATUTE~~
Assumption is correct.
Origl on 70311/1/38 (leaf)

4. To F.O. (M/C 123) cons. _____ 15/9/38.
~~RESTRICTED UNDER STATUTE~~
FO. " " " "

5. F.O. W/12088/104/98 _____ 19/10/38
Ref: in circ stated, considers it is unnecessary
to issue further special instructions to Consuls
and Passport Control Officers.

6. Note on li above, with ref. to outstanding
applications for permission to enter Kenya.

(6) was discussed yesterday, by the Dame
the Parker & myself.

The procedure as at § 6 (a) (b) & (c) was
app'd - except that "requests for information"
are to be transferred to E.A.T. 1.0
It was decided that a short explanatory
despatch shd go to Kenya & the
action in the above lines shd proceed
by l.f.

After shd also go to E.A.T. 1.0
informing them as at § 5 2 (1)
& enclosing an up to date summary
of immigration instructions. (see on 46560/28/38)

It was also decided ref § 8 2 (6)

visa requirements from Gen 7031/1/38

(since it has been started) to his new file. Mr Hibbert has agreed. It was also suggested that "Doctors" (the other subject referred to

in (1)) should continue to be dealt with in Gen fpps as hitherto

- all applications from doctors to practice medicine in Kenya received in future by the E.A. Dept. should be sent to G.O. for action. (This has not invariably been the case in the past).

Ref to Kenya att'd consors. [see also ref to Col. Knaggs on 46560/28/38]

Pharmaceuticals
27x

The minutes dealing with (1), etc in a Genl file 7031/1/38. It is to be copied and placed in the file for (1) in future considered

James
28/x

As regards doctors there is a lot we could say how to reassure Kenya but perhaps we had better await H.O reply

W. J. B. Jones
28/10

Kenya brief - 1. Approved. 21. 10. 38.

I have no
action
at present
8/10/38
28/10

8. Govs Dep 196 brief
24/10/38
3
Facts memo. submitted by the Executive Committee of the East African Indian National Congress on the Immigration of Jewish Refugees into Kenya with comments thereon.

(Ough reqs a 38232/57/38)

No 9
transferred
to 38087/2C/38

19/10/38 to Gov Conf com. 7/11/38

Copies h.w
(att'd to draft)

It will be seen from telegraphic correspondence on 38087/2C/38 that, in spite of the Consular instruction of the 28th of April, which is mentioned in No. 5 on this file, there have been many cases in which visas have been granted by British Consuls abroad, without prior reference to the Government of Kenya, in which entry into Kenya has had to be refused on the ground that the immigrant was liable to become a public charge. ~~A Differing Committee~~ ~~was desirable~~, therefore, that the Foreign Office should be requested to issue a further instruction to Consuls, and I submit a draft accordingly.

J. J. P. B. B. B.
9.11.38.

James
9/11

W. J. B. Jones
11/11

Allen
11/11

attached
attached H.O. A.

10.11.38
FO
10/11/38 (5. mod)
Ow. 38087/2C/38

11. ... to ... for Land & Settlement 14/11/38
(Received an ... to ... letter No. JS/38/1 of 14/11
- No 72 on 38 232/15 32)

Colonel Knaggs called yesterday to see Sir Cosmo Parkinson, who, however, was otherwise engaged, and asked Mr. Hibbert and myself to see Colonel Knaggs in his place.

The object of Colonel Knagg's call was ~~apparently~~ ^{partly} to give us some information about the manner in which ~~the~~ Plough Settlements Limited want to set about the refugee settlement scheme (as to which I have minuted on 38232/5/38), but more particularly to discuss the difficulties which not only he, but also British Consuls throughout Germany and Austria, are encountering in replying to enquiries from individual Jewish refugees as to the prospects of their being admitted to Kenya. These enquiries are being received in very large numbers (many more than we see in this Office) and Colonel Knaggs represented that British Consular Officers, in particular, should be furnished with much more precise instructions to assist them in dealing with applications for visas for Kenya. As stated in No. 10, visas have already been granted in many cases in which they ought not to have been granted, with the result that refugees have had to be refused admission on arrival at Mombasa. Colonel Knaggs represented the urgency

of

of the problem and he said that Consular Officers receive such a flood of applications that they are almost at their wits ends and it is not surprising that mistakes should have occurred.

Colonel Knaggs also represented that he himself is in an impossible position in dealing with these enquiries. It is not sufficient to supply an applicant with a summary of the immigration regulations because these afford no indication as to the prospects of any particular individual being admitted to Kenya, and Colonel Knaggs asked whether it would not be possible for the Government of Kenya to stipulate some fixed amount (say, £200) the possession of which would be sufficient to assure admission into the Colony. I pointed out to Colonel Knaggs, however, the difficulty in fixing any such sum for this purpose; for example, a motor mechanic with £200 in his pocket might properly be admitted if the Immigration Authorities were aware that there were openings for such a man. On the other hand, there was clearly a limit to the number of motor mechanics who could be absorbed in Kenya, and after the local absorptive capacity of this trade had been fully exploited it would clearly be wrong for other motor mechanics to be admitted even if they had £200. What it comes down to is that each case is to be considered on its merits by the authorities in Kenya in the light of their knowledge as to the prospect of the man being able to make his livelihood in the Colony. Colonel Knaggs agreed with this view, but he pointed out that

it is cold comfort to a German refugee who is on his beam ends in Europe and who in most cases cannot afford to wait for these enquiries to be made, even if the Consular Officers were not so overwhelmed with applications that they really have not time to make these enquiries.

I pointed out to Colonel Knaggs that the admission into Kenya of everybody who could produce £200 would inevitably lead to overwhelming congestion in the local employment market, and that Government of Kenya was simply not in a financial position to act as a sort of relieving officer for Europe (this year they are budgeting for a surplus of only £500). The plain fact is that apart from agriculturalists with, say, £1,500 capital, there is very little scope for the absorption of more than a very small number of emigrants into Kenya, and I do not see how it would be possible for any rough and ready criterion (such as the possession of £200) ^{to be} laid down as a sufficient condition of admission. In other words, I do not see how the instructions to the Consular Officers or to Colonel Knaggs can be made more precise than they are at present, however unsatisfactory the position may be. As regards the stipulation, which is now being enforced, that no immigrant can be admitted to Kenya unless he is in possession of a passport valid for return to his country of origin, or has a visa which would enable him to be passed on to some other country, it will be recalled that the purpose of this stipulation is to

prevent Kenya from being saddled for ever with a person who is unable to make his own living, and who is therefore liable to become a public charge. Even in the distressing circumstances reported by Colonel Knaggs in No. 11, I do not see how Kenya can reasonably be expected to dispense with this stipulation, except in cases where there is clearly a reasonable prospect of the emigrant being able to earn his own living, or where it is possible to obtain a guarantee from some charitable organisation (as has been done in the case of the Settlement Scheme), that the emigrant will not become a public charge. ~~As~~ As I have pointed out above, the question whether any particular individual is likely to be able to make his own living in Kenya can only be settled by the authorities in Kenya. Colonel Knaggs told us that a number of refugees had been admitted to Kenya on the strength of jobs having been found for them by the Jewish Committee in Kenya, which is in touch with the Council for German Jewry here, and I must say that it seems to me that it would be very much more satisfactory to everybody concerned, including the applicants for admission, if these applications could be canalised into some such channel. A tentative effort to achieve this result was made some months ago at the meeting with Sir John Shuckburgh, at which the Council for German Jewry were represented by Mr. Bentwich and Mr. Stephany. At that meeting it was agreed that we should refer all applications to the Council for

German Jewry who would do what they could for them through the channel of the Jewish Committee in Kenya. This arrangement almost immediately broke down, however, under the flood of applications which were received, not only here but at the Trade and Information Office. It is, however, for consideration whether we should not make another effort to establish some such channel for dealing with these applications. It would however involve ^{an} instruction to Consular Officers all over Europe to refer all applications to some local Jewish agency which would be in touch with the Council for German Jewry here. I am afraid, however, that I have not very much hope that it would be possible to establish any such machinery. This is, however, primarily a matter for General Department to consider.

J. J. Pascoe

11

17.11.38.

W. B. J.

What we need to know is that the Passport Control Officers have exactly what to say to emigrants who wish to go to Kenya, and avoid ~~causing~~ the recurrence of cases where British Jews have gone to Kenya, inquiring that if they can produce £50 they can get in - in other words, the P.C.O.'s should be instructed to note in their reports to the F.O. that the fact of admission to Kenya is not the main issue.

likelihood of their becoming a class in the Colony, we must try to get a little capital at the moment at their disposal.

The Council for G. Jewry in London concerned with finding jobs abroad for refugees who have got into England. They have a number of components in many parts of the principal towns in Germany etc. - but it seems to me that the difficulties to which W. Perkins refers with largely dismissed if the P.C.O.'s abroad can perhaps ~~be~~ ^{be} ~~briefed~~ ^{briefed} is open to the Kenya emigrants. A letter suggests this has already gone to the F.O. (N-10)

J. J. Pascoe
18th

In the special circumstances of the case the question of what instruction it is desired should be given to Consular Officers on the subject of the grants of visas for Kenya seems primarily for the Exempt to decide in consultation with the Dept of Kenya. Unless the Dept can devise some criterion which will guide Consular Officers in the matter the best course seems to be to ask the F.O. to instruct Consular Officers that no visas for Kenya should be granted to persons

now or in the near future to fall into the category of
refugees) without prior reference to the Govt of
Kenya. It may also however be desirable
to give consular officers some guidance as to the
steps that should be followed when referring to the
Govt of Kenya.

There are already precedents for such instructions
e.g. no Germans or Austrians may now be given
visas for Malta without reference.

A discussion with the F.O. on the subject might
help to clarify the situation & assist in reaching
a decision as to what is best to do.

WJ Bygg
14/11

Be more the end we had better
wait & see what reply Mr. Knaggs letter
is from Kenya?

to enquire from
23/11

Attn
A.P.
23.11

12 copies of minutes on 7031/1/58 Govt on subject of No. 1

13. Duncannon.....6.12.58.

Complains' against requirement by Kenya Government that
immigrants should possess return visa. Quotes case of
Theodor Petjan, and enquires what he should do.

Some correspondence once in this file has
been transferred. On a minute sheet no longer here
I noted last week that I had rung ^{up} Col. Knaggs
with reference to Mr. Freeston's minute opposite.
Col. Knaggs had not then received a reply from Kenya,
but said he would let us know as soon as it arrived.
He has not yet told us that the reply is in.

No. 13.

We had not heard of the case of
Theodor Petjan. The best we can do is to say that
we shall ask Kenya about him.

Paragraph 5 no doubt refers to the case of
Mr. Liebenstein. It could be explained in reply
that the difficulties in which he found himself
occurred owing to an error made by the Consul at
Basle, viz. in giving Mr. Liebenstein a visa without
prior reference to Kenya, and that steps are being
taken (enclosure to 12A) to see that such errors
do not occur in future.

The letter is not quite accurate in its
description of the requirements as to passports which
are at present in force. In paragraph 5 of No. 1
the Governor reported that he had issued instructions
that immigrants would be required to possess a
full national passport enabling them to return to
their country of origin, or to go to a third country.
Lord Duncannon appears to be unaware of the latter
alternative.

Now see B5
below

In the minutes on the original of No.1, now extracted to No.12 hereon, it was suggested that these "instructions" should be referred to the Legal Advisers, for advice as to their legality. Urgent action on the General file (7031/1/38) has so far prevented this being done. ^{the day before} Yesterday, however, Mr. Dale saw a copy of paragraph 5 of No.1 in a different connection and doubted whether the "instructions" were legal. If they are illegal, legislation amending the Immigration Restriction Ordinance would presumably be necessary if requirements of the kind are to be demanded in future. To pass an amending Ordinance would take time, and in the interval the position would be unsatisfactorily doubtful. Moreover, to introduce amending legislation would run counter to the passage in the last paragraph of the circular despatch of the 1st December 1938, which reads ".....I should greatly deprecate the introduction of any restrictions expressly designed to render the entry of refugees from Germany more difficult." Further, in 1938 the Foreign Office points out in forceful terms the practical absurdity of expecting a refugee ever to return to Germany, ^{asks} and that the Colonies who have made this "return visa" requirement should be asked to withdraw it.

In view of this it would seem that a despatch should go to Kenya explaining that these "instructions"

"instructions" are, in the view of the Secretary of State's Legal Advisers, ultra vires the Immigration Restriction Ordinance, referring to the passage quoted from the circular despatch, and suggesting that in future entry to Kenya should not be refused, on grounds of passports being inadequate, to those in possession of passports enabling them to make the journey to Kenya and no more.

The objection from Kenya's point of view to withdrawing the "return visa" requirement is that it will then be possible for refugees to enter Kenya who appear to be reasonably well off but who later lose their money: & it will then be impossible for Kenya to get rid of them. I doubt, however, whether to withdraw the return visa requirement will make a great deal of difference in practice, since, as is seen from the third paragraph of No.11, those refugees who are at present being provided with return visas by the German Authorities are in many cases being forced to sign a declaration that they will in fact never return. The "return visa" is in such cases a "scrap of paper" so valueless that Kenya will lose nothing by refraining from demanding it.

Moreover, to withdraw the "return visa" requirement still leaves Kenya in a position to refuse entry on the ground that the intending immigrant is likely to become a public charge. The summary of the immigration regulations enclosed in No.1 shows (para.1 (a) read with para.2 (b)) that those immigrants who are likely to become a public charge may be allowed to enter on deposit of £50. In practice all immigrants, whether British or foreign, are required

to make this deposit (except in rare cases where special arrangements are made e.g. "Plough Settlements Limited"); but in the case of refugees who generally speaking will never be able to return to their country of origin the Governor has been making much more stringent demands before granting permission to enter. The intending immigrants have to show that they have substantial financial resources or an offer of employment, or both; and in some cases entry has been refused when ~~an~~ offer of employment is considered precarious.

-/20/-

It is extremely unfortunate for the refugees that entry should be refused in the latter circumstances, but from the point of view of the Government of Kenya it is difficult to see that any other course of action is possible. In most cases these refugees are there, once they are let in, for good, and Government clearly cannot allow the country to be thronged with Germans whose position, if their job fails and when their few Pounds are spent, would be that of paupers. If Government had money with which to pay for the settlement of the refugees, or a fund from which to meet expenses incurred on their upkeep, and their private resources are exhausted, it would be much easier to make the conditions of entry ~~easier~~ ~~more~~ simpler.

It would seem that this is where charity comes in. In some cases Government has allowed entry to people, who otherwise would have been refused, after a guarantee has been/

that they will not become public charges during the first five years of their stay.

There are numerous organisations, including the Jewish Committee in Kenya, who have collected money to help the refugees, and it would seem that to suggest to them that they should offer a guarantee of this sort in the case of fairly considerable numbers of refugees (each case would probably have to be treated separately) would appeal to them as something which they could do and ought to do. To give a guarantee, which in most cases it is to be hoped would never have to be met, would be a much less severe drain on their resources than to provide money to finance both journey and settlement.

The way that a proposal of this sort would fit into the general picture of dealing with refugees is as follows. - All applications to enter Kenya are now being (or ought to be) referred to Kenya, either by one or other of the governmental offices (including consular offices) or by the applicants themselves. It could be suggested to Kenya that in cases where applications have to be refused on the ground that the applicant may become a public charge, the Jewish Committee in Kenya should be asked whether they can put up the necessary guarantee. The Council for German Jewry, or some other organisation, could be asked to make a part of their funds available to meet any sums which the local Committee has to disburse in respect of the guarantees; and the local Committee could issue particular guarantees in respect of individuals whose deserts and merits they would be in a position to gauge from the information supplied by the Government of Kenya.

Mr. Stephany (Secretary of the Council for German Jewry) could be consulted about the practicability of such an arrangement.

PS While this was being typed - I talked with Mr. Hibbert on the telephone. He thought we ought to telegraph asking Kenya to remove the "return visa" requirement, as public criticism was likely to be directed against it was that it has become fairly widely known.

At his suggestion I also rang up Lord Duncannon, & told him that we were taking action over the "return visa" business, & that action was also being taken to prevent the Liebenstein fiasco repeating itself. He was glad to hear this & said he would like to have a reply to his letter when we had all the results of the action now in train. He agreed that there was no need to ask Kenya for a report on the special case of Theodor Rebian: it is better to concentrate attention on the general questions of principle.

Action: ? ① to Mr Duncannon for advice on the legal aspect of the "return visa" business: ② then a telegram to Kenya asking for its removal (going, means etc): ③

The Times
Will you be so good as to look at para 5 in No 1, and advise whether the Kenya Government's action is intra vires!

No doubt you have the principal Ord^s (Cap 62 of the 1926 Revision), & a complete set of subsequent amendments is annexed.

M. Freeston.

In my view, a passport or other document satisfactorily establishing the identity of any German refugee, if issued to him by or on behalf of the German Government and duly visaed or endorsed for the B.E. or Kenya, would be a valid passport or other document within the meaning of section 40 of the Immigration Restriction Ordinance (Cap. 62), notwithstanding the fact (1) ^{the holder of} that such a passport ~~could~~ not return to Germany, or (2) that such other document did not carry a "return visa" or visa to enter another country. ^{is given} The permission to return or a visa to go elsewhere

I do not think that it could possibly be put as a matter of law that Section 40 requires a passport with a return visa if for no other reason than that the section does not say so.

I ~~do not~~ think we ^{can} ~~had better~~ put the case ~~however~~ on the ground that these instructions are ^{if the instructions are given under § 40, they may be} ~~ultra vires~~ because they are probably made with reference to Section 11. It is claimed that under Section 11 they have a discretion to refuse admission even though the immigrant puts up £50 or is willing to give a satisfactory bond. That may or may not be the case. If it is the case I suppose they could say that only people with a return visa would be admitted under that section. What they ~~cannot~~ say is that they are bound to impose that condition having regard to the terms of Section 40, ^{or that they can include people under} ~~§ 40 if they have a return visa or a return ticket~~

14.11.38.

I have recast Mr. Costley-White's draft despatch in an endeavour to bring out more clearly what seems to me to be the effect of the legal advice on this question.

Mr. Costley-White has now drawn my attention to ~~the~~ ^a Bill to Amend the Immigration Restriction Ordinance, which appears on pages 1651 ~~etc.~~ ⁵⁰⁰ of the Kenya Gazette of the 29th November. It will be seen that one of the amendments proposed is the alteration of the proviso to Section 11(1) to empower the Immigration Officer to require the immigrant to give security by bond to such amount (not exceeding

£500) as the Immigration Officer may consider necessary. The amount previously stipulated in this Section was £50 (i.e. the same amount as is prescribed for a deposit). At first sight this would appear to conflict with the last paragraph of the Circular of the 1st December in which the Secretary of State deprecated the introduction of any restrictions expressly designed to render the entry of refugees from Germany more difficult. I doubt, however, whether this is in fact the effect of this amendment. In several cases recently, deposits, or guarantees, designed to protect the Government against the danger of an immigrant becoming a public charge, have been accepted, and it may well be that an ~~amendment~~ ^{expansion} of this procedure under the authority of the proposed amendment to Section 11(1) may in fact facilitate the entry of some refugees who would otherwise have to be refused admission.

I do not suggest that this question should be gone into on this file, but I mention it in order that discussion on this point should not hold up the action proposed. I am having a copy of this Bill registered on a separate file on which these and various other points can be gone into.

14.12.38.

I have no comment on
a despatch

This is all right, I think, as far as Kenya is

have received in Tanganyika

16/12

Not yet, so far as I am aware:
I have had letters from copies of the
Dept. to Kenya, with copy of the case, for record on
on T.V., N.E. & N.W. files - found
settlement, so that any direction we
may have to give in connection with the
business of local immigration etc.
may be helpfully co-ordinated.

Copies now kept
on N.E., N.W. & ad
33 files.

Esther
16/12/38

(11/11/38)
16/12

1st. to Kenya Dept. (7/12/38) - 12/12/38

15. Governor 218. 9/12/38
Ref 7 gives particulars of case of Mrs. Ferdinand
Sommer and requests that, in order to
prevent the occurrence of similar cases,
instructions should be issued that all applications
for visas for Kenya or Uganda should be
referred to the Immigration Office, Kenya, except
in cases where applicants possess inadequate
means so they should be refused.

19/12/38
Enclose copy of reply received to Roll. To
still recurring inquiries as to sum required
for entry into Kenya.

b.9 Nominal

15 Action has been taken - see 12A - to
prevent Consuls on the Continent
issuing visas without reference to
Kenya Kenya has been told of this
in 114. ? Copy to FO if inf-

16 Provides useful information. No action
needed at the moment.

Letter to Mr. Stephany submitted on lines
of minute of 9/12
Cloughdale 23/12

17 To Stephany - comm. 23/12/38

15 & 16. than an inf.
A letter is more likely to receive
its need of consideration. So I should
be inclined to send to FO. in a short
letter (w.v.t. on letter on Gen'l H.
concerning in the sp. vic. to Circular
authorities) copies of 15 & also of 11 &
enc. to 16, asking (if it is not too
late) that the substance of the last part
of para 5 of No 15 should be incorporated
in the circ. also enc. copy of 14 instead of
sending it up
[It is true that the Circ. relates to
Cols. generally, but as such a large
number of applications are in regard
to include 16.]

19/12/38
M. Gilbert to
see of it

18. Extract from the Times - 27.12.38.

19. Mr. Stephany _____ 30/12/38

DESTROYED UNDER STATUTE

Ref 17. He would be glad if interview could be arranged

To FO (LAC 14.15.11.226/6) 2-1-39.

Mr. Stephany, accompanied by Mr. Fletcher (who is taking charge of the Plough Settlement scheme), called here on the 4th of January to discuss the suggestion which I put to him in my letter of the 23rd of December (No. 17).

It was agreed that, in the first place, Mr. Stephany's organization would get in touch with the Jewish Committee in Nairobi with a view to exploring the possibility of the Central British Fund for German Jewry "backing" guarantees given in Kenya by the local Jewish Committee, and thus possibly facilitating the entry into Kenya of a larger number of individual Jewish immigrants than would otherwise be possible. Mr. Stephany pointed out that, in view of the contingent liabilities involved, the Jewish organizations are naturally very "conservative" in the matter of giving guarantees. In no case do they give a guarantee unless they are pretty well satisfied that the immigrant will make good. This involves a good deal of enquiry into the circumstances of each particular case by people (in this instance the Nairobi Jewish

the absorptive capacity of the local employment market. It was suggested that one of the things that Mr. Stephany should ask the Nairobi Committee to do would be to prepare an estimate of the probable numbers of refugees who could be absorbed into various kinds of employment in Kenya. It was agreed that we would take no action vis-a-vis the Kenya Government until the ground has been explored in this way by Mr. Stephany, in correspondence with the Nairobi Committee.

This file can now be put by for the present.

W. Herbert shall see
Jan
6/1

J. J. Pascoe

5.1.39.

Frank
with

Fletcher report note
as draft No. 30

attached Nov 11
with ref to ...
How note on ...

No 10

28. 10. Kenya Conf (2) (1/12.20 "a. unls.") A/1-20 3.39.
(15. Approved)

Review of ...

C. O.

Mr. Cooke White 26/12

Mr. Hibbert 28/12

Mr. Pigg 28/12

Mr. Parkin 29/12 J.

Sir H. Moore.

Sir G. Tomlins

Sir C. Bottomley.

Sir J. Shuckburgh

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

26

Sir

I am etc to refer to

the letter from Cui Office of the 17th of December (2463/38) on the subject

of the immigration into Kenya of refugees from Germany, and to transmit to be laid before His Majesty's High Commission at Halifax, copies of correspondence with the Govt of Kenya on the subject.

21/1/39

4 on 2463/38 Genl

of a draft circular despatch to His Majesty's Consul & Passport Control Officers concerning

Copies to Kenya

DRAFT

U.S.G.S.

F.O.

14
15
11
and to 16

FURTHER ACTION.

Copy to Kenya +.
Conf. ref. 14.

(14)

In view of the Census of the Mr Mac Donald's despatch of the 21st of December it is not at Cui stage.

P.T.O.

of the 9th of December.

Mr Macdonald

(15)

would, however, be grateful if, as
~~the assumption~~ ^{of} the Circular
despatch to His Majesty's Consul &
Passport Control Officers has not yet
issued, same could be included in
it the substance of the latter part
of the fifth paragraph of the
Governor's Despatch.

(encl 12A)

3. Copies are also enclosed, for Lord

~~Macdonald~~ Makopax's information of
Lt. Colonel C.F. Kinross,
correspondence ^{factories}, the agent
in London of the Govt of Kenya,

(11)

& the Comm^r of Lands & Settlement
in Kenya, on the subject of the

(16)

amount of money which it is
~~to~~ considered necessary for intending
immigrants into Kenya to have at
their disposal.

for Refugee Review file

38087/2A/38

TIMES

27/12

THE CASE OF THE REFUGEES A FINAL SOLUTION NEEDED

NEW SETTLEMENTS

By Sir Arthur Salter, M.P.

We are all of us overwhelmed with the individual tragedies of refugees and with the difficulties of securing them admission and shelter. There is a danger that we shall be diverted from the question of main strategy in attacking what is now becoming a formidable world problem. It is certain, however, that measures for temporary shelter and for definite settlement must be pressed on simultaneously; for neither is possible on any adequate scale without the other. The great obstacle to a freer temporary admission of refugees in peril is the fear of the British Government, as of others, that if large numbers are once admitted they will be on their hands for an indefinite period. If good progress were once made with schemes of definite settlement in colonial areas or elsewhere it would be easy to make temporary arrangements, in special camps or otherwise, for the reception of greatly increased numbers. And selection and training during this period of temporary shelter would improve the prospects of successful settlement elsewhere.

Some proposals are now being considered for migration to colonial or other areas. The British Government have made certain offers, the most important of which relates to British Guiana. It does not seem likely, however, that the schemes as at present conceived will do more than touch the fringe of the problem.

LOOKING FAR AHEAD

We must start by realizing the scale of the transfer of population involved. About 200,000 Jews by religion have already left Germany and Austria. There are probably another 500,000, with 500,000 "non-Aryans" who are subject to serious persecution in Greater Germany. In addition, there are Aryan political and religious refugees, and some thousands of Italian Jews now under notice to leave. The total to be dealt with in the near future may amount to almost a million—that is, five times the number already out.

The prospect for the further future, of the next few years, is still more serious. There are 3,000,000 Jews in Poland and nearly 2,000,000 in Hungary, Rumania, Czecho-Slovakia, and Lithuania. A large proportion of these are likely to be forced out. For, apart from the spread of Nazi doctrine and stimulated anti-Semitism, longer-term forces are in operation. In the 10 years before the War the United States, which has since reduced the inflow to a mere trickle, received some 10,000,000 migrants. The European economy became dependent upon this safety valve and has suffered greatly ever since it ceased to be available. Therefore it may well be that in the future...

The real question is what should be the principal method of dealing with this exodus. Shall it be by absorption through a process of infiltration? Or shall it be by the establishment of new communities—i.e., by group settlement? For small numbers the first method is the natural, whether the infiltration is into industrialized countries or into colonies by the ordinary form of colonial migration. No great constructive effort is needed, and the new entrants become absorbed into existing communities. This is what has happened hitherto, and there is no clear sign that the proposals for migration to colonies are being conceived as different in kind. The possibilities of absorption in this way are, however, very limited indeed, except in so rare a case as that of a rapidly expanding and developing country like the United States in the second half of the nineteenth century. At the present time political and economic conditions make the difficulties of absorption very great, and they are exaggerated in the minds of the Governments which determine the numbers to be allowed entry. We are already acutely conscious of these difficulties in Great Britain and France. And the possibilities of absorption in colonial areas by the ordinary process of successive families emigrating and fitting themselves into an existing community are equally limited. It is enough to recall that all the Germans in the German colonial empire of 1914 amounted to only about 20,000, and that after over half a century the total of Europeans in colonial tropical Africa (i.e., excluding South Africa and the Mediterranean coast) does not exceed 300,000.

THE GREEK PARALLEL

Clearly no solution lies this way. But when we turn from absorption into existing communities to the establishment of new communities the whole problem becomes of manageable dimensions, if several colonial Powers contribute and if the right line of action is taken. The Greek experience is decisive. After the fall of Smyrna well over a million Greeks fled from Asia Minor into Greece, a number equal to a quarter of the total population of the country. Most of them were settled on the land in new homogeneous refugee settlements. Over 500,000 were settled in the mere strip of Macedonia. The result has been that this vast addition to a small population, so far from being an impossible drain upon the country, has actually added to its economic strength and resources. The method adopted was that the League of Nations made a scheme of settlement, officially recommended but not financially guaranteed by the Governments of League States, established a Commission to carry it out, and thus enabled a loan to be raised for the capital expenditure required. It is true that since the general financial crisis of 1931, and solely as the result of that crisis and the consequent disturbances, there has been a default in the interest due to the lenders. But the experience remains valid as showing first that large numbers of refugees can be quickly settled in new communities, and secondly that the official authority of Governments is essential if this kind of settlement is to be successfully arranged.

Voluntary enterprise and effort can hardly ever by itself carry through such a scheme. Large communal services, the construction of means of communication, economic development needing large capital are all essential and are all beyond the scope of voluntary associations, unless they have not only "facilities for acquiring land" but official authority to enable the necessary capital to be raised. If, indeed, Palestine could have been made available as a whole, it is likely that Jewish voluntary effort could have developed the whole country with no assistance from the British Government except the maintenance of law and order and of the general framework of the State. The sentiment associated with the Jews' historic home would have brought a concentration of effort that cannot be expected elsewhere. Much more will be needed from the Government if Jewish communities are to be established in regions which enjoy no such advantage.

Take British Guiana, for example. The Government state that 10,000 square miles, and perhaps more...

88087/2A/38.

No draft. But
see before name
by Mr. Denton and
Mr. Herbert. J.P.P.

16
17
23rd December, 1938.

Dear Mr. Stephany,

The Government of Kenya is still being inundated with applications from refugees who wish to make their homes in the Colony. These applications reach the Government of Kenya from a variety of sources including the various British Passport authorities on the Continent. In cases where it is quite clear that the refugee in question has no prospect of making good in the Colony, and would therefore almost certainly become a charge on public funds, the Consular authorities have instructions not to issue visas. In cases of doubt, however, they are instructed to refer to the Immigration authorities in Kenya. This is normally done direct, but in a few cases the reference has been made through the Passport Office here and we have sent out the papers to Kenya. We have just received a batch of replies dealing with a number of such cases, in one or two of which the Governor has indicated that he is prepared to agree to the admission of the refugees in question,

M. STEPHANY, ESQ.

17

question, on the strength of a guarantee by the local Jewish community that these refugees will not become a public charge. In a few other cases, the Governor has intimated that as there seems a danger that the refugees in question would become a public charge, he is unable to agree to their admission, but he has not indicated whether (in these cases) he has taken up with the Committee of the local Jewish community, the question whether they are prepared to furnish guarantees.

As you know, we are very anxious to do all that we can to assist in suitable cases and we have been wondering whether it would be possible to come to some more regular arrangement for suitable cases to be taken up with the local Jewish Committee in Nairobi with a view possibly to their furnishing the necessary guarantee. I imagine, however, that one of the difficulties would be that the funds at the

the disposal of the Local Committee would be comparatively limited and we have been wondering whether the organisations in this country, who have very much more extensive funds at their disposal, would be prepared to co-operate in some scheme which would enable the Jewish community in Kenya to give guarantees in a larger number of cases, and we should be very glad to have an opportunity of discussing this suggestion with you if you could make it convenient to call here some time after Christmas. I, personally, shall be away until Thursday, the 29th, but after that we ^{should} ~~shall~~ no doubt be able to fix some mutually convenient time.

Yours sincerely,

J. J. Passer

TELEPHONE: WHITEHALL 5701/2
CABLES: EAMATTERS, LONDON.
TELEGRAMS: EAMATTERS, RAND, LONDON



TRADE & INFORMATION OFFICE
GRAND BUILDINGS,
TRAPALGAR SQUARE, LONDON, W.C.2.
(ENTRANCE IN THE STRAND)

F 398/E

19th December 1938.

22 DEC 1938

Sir,

JEWISH REFUGEES - ENTRY TO KENYA.

With reference to my letter to you of the 14th November last, I have the honour to inform you that I have now received a reply from Kenya to my letter of the 14th November, a copy of which was sent to you on that date.

I enclose herewith a copy of the reply from Kenya for your information.

I may mention that I am still receiving a great many enquiries from European countries in connection with the sum required for entry to Kenya, and these enquirers have apparently been directed to write to me by the British Consular Authorities in those countries.

I have the honour to be,

Sir,

Your obedient Servant,

KENYA AGENT.

The Under Secretary of State
Colonial Office
Downing Street
London, S.W.1.

DEPARTMENT OF LANDS AND
SETTLEMENT

NAIROBI. 9th December 1938.

No. LND. 7/9/107

CONFIDENTIAL.

Sir,

JEWISH REFUGEES.

Reference your Confidential letter of the 14th
November, 1938.

It is impossible to lay down hard and fast rules
and fix a definite sum applicable to every case.

Each individual application should be submitted for
consideration together with a full statement of the appli-
cant's available financial resources and prospects of
employment. As a guide to the provision which the
Immigration Board would consider to be adequate the applicant
should possess substantial private means which will be
available in the Colony amounting to not less than £250
for each adult and an extra £150 for each child,
alternatively a bond from some person of substance or
some satisfactory body of persons in the Colony to the
effect that applicants will not be a public charge for a
period of three years might be accepted.

I have the honour to be,

Sir,

Your obedient Servant,

(Signed) C.E. Mortimer

Commissioner of Lands and Settlement.

THE KENYA AGENT
TRADE AND INFORMATION OFFICE
GRAND BUILDINGS
TRAPALGAR SQUARE, LONDON, W.C.2.

46 FO. (20)

CONFIDENTIAL

RECEIVED

16 DEC 1938

C. O. REGY

9 December 1938

Sir,

I have the honour to refer to your Confidential despatch of the 31st October, in which you intimated that you were in communication with the Foreign Office and the Home Office on the subject of the instructions given by me under section 40 of the Kenya Immigration Restriction Ordinance that no person (other than exempted persons) shall be permitted to enter the Colony without a valid passport or document carrying a "return visa" or a visa to enter another country.

2. Representations have been made by the French Consul to this Government in respect of a German national, Mr. Ferdinand Sonnheim, who arrived at Mombasa in a French ship, the S.S. "Leconte de Lisle", on the 6th November. Mr. Sonnheim produced a German passport No. 83/38 issued at Rockenhausen on the 25th August 1938 and bearing a visa for the Uganda Protectorate issued by the British Vice Consul at Muniion on the 12th September and numbered 1429. He also produced a transit visa issued by the French authorities valid for 14 days for the purpose of travelling from Germany to Marseilles to embark.

Mr. Sonnheim was in possession of the sum of £70 only and as an amount of £60 is required for immigration deposit purposes for Uganda it was considered that his financial resources were inadequate to purchase a railway ticket to Uganda and maintain him until he

THE RIGHT HONOURABLE
 MALCOLM MACDONALD, M.P.,
 SECRETARY OF STATE FOR THE COLONIES,
 DOWNING STREET,
 LONDON, S.W. 1.

secured/

*Copy to FO
 20
 [Signature]*

secured employment, the seeking of which was the apparent object of his visit. Admission was, in the circumstances, refused and he departed in the same vessel. It is understood that he trans-shipped to another ship of the same line at Dar-es-Salaam and is now returning to France.

3. The French Consul represents that, apart from the financial loss which may possibly be suffered by the shipping company in returning Mr. Sonnheim to France, undue hardship has been caused to Mr. Sonnheim who is not in possession of a visa for France and cannot, being a refugee, obtain one without reference to the French Foreign Office in Paris. In these circumstances he can be refused admission to France, but the Consul is of the opinion that he will be permitted to land and that, as he could only be returned to Germany at considerable personal risk, he will be allowed on humanitarian grounds to remain in France. It is doubtful if he can secure employment in that country and thus may become a charge on public funds.

The Consul represents that this liability has been incurred through the issue of the visa for Uganda by the British Vice-Consul at Munich, the French authorities considering that such a visa implied admission to Uganda and thus granting an in-transit visa for France. It has been explained to the Consul that possession of a visa does not absolve the holder from compliance with immigration regulations, but he has asked that endeavours be made to prevent, if possible, a repetition of such a situation.

4. The Foreign Office Passport Control Department's Circular No.S.12994 of the 28th April, a copy of which was forwarded to this Government under cover of Colonial

Office Circular Note 2 of the 6th May, provides, inter alia, that in any case in which there is doubt whether the applicant for a visa on a German passport will be in possession of adequate means on his arrival in a Colony, or in any other case of doubt, visas should not be granted without prior reference to the authorities in the territories concerned, and that landing in each case will be subject to compliance with the local immigration regulations.

In view of the inadequacy of the financial resources of Mr. Sonnheim, it would appear that the British Vice-Consul at Munich failed to comply with the provisions of this circular, and a communication has been addressed to him requesting that any further applications may be referred to the Principal Immigration Officer in this Colony before visas for Kenya or Uganda are granted.

I am advised that visas in similar circumstances have been granted by British Passport Control Officers at Trieste, Basle, Milan and Vienna.

5. With a view to the prevention of the occurrence of further cases of this nature, I shall be glad if representations may be made to the appropriate authorities with the object of obtaining the issue of an instruction to all British Consular and Passport Control Officers to the effect that no visas for this Colony or the Uganda Protectorate should be granted to holders of German (including Austrian) passports or to stateless persons or refugees without prior reference to the Principal Immigration Officer, P.O. Box 83, Nairobi, Kenya, and that visas should be refused without such reference in cases where the applicant has no immediate prospect of employment and has obviously inadequate means to maintain him for a reasonable time until he can secure employment. In

this connection it should be pointed out that "adequate means to maintain him" refers to a sum over and above the sum of £50 (or, in the case of Uganda, £60) which is required as a deposit on arrival.

Attention might with advantage be drawn also to the fact that the economic development of Kenya and Uganda being almost entirely on agricultural lines opportunities of finding employment in urban occupations are necessarily very limited, while in agricultural pursuits the absorptive capacity of both Dependencies is small particularly for immigrants with restricted and small capital resources and without local farming experience.

6. A copy of this despatch is being sent to the Governor of Uganda.

I have the honour to be,

Sir,

Your most obedient,

humble servant,

H Brecke Popham

AIR CHIEF MARSHAL
GOVERNOR.

C.O.

Annot. 10/19/38 file 38087/2A/38.

Mr. Costley-White 12/12

Mr. Parnin 14/12

Mr. Hill 15/12

Mr. Freeman 16

Mr. Bond 16/14/38

Mr. Bond 16.12

Sir G. Tomlinson.

Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

Downing Street.

21. December, 1938.

17th Dec

DRAFT.

conson.

KENYA

CONFIDENTIAL

Sir,

I have etc. to refer to correspondence ending with my confidential despatch of the 31st October regarding the control of immigration into Kenya and to transmit copies of correspondence on the subject with the Foreign Office.

(7)

Ltr. to F.O. (10)

(w/o marks)

Ltr. from F.O. (12a)

2. I am causing the F.O. to

See 2463/38 genl attached.

be informed, in reply to their letter of the 1st December, that I concur in the terms of the draft circular despatch to His Majesty's Consular and Passport Control Officers.

FURTHER ACTION.

Recirc. in red

Copy 7.0. LF...

Copy with copy of well...

Copy G. F. O. with...

No. 20

C.O.

Mr. Costley-White 12/12

Mr. Parnin 14/12

Mr. G. S. ... 15/12

Mr. H. ... 15-12

Mr. J. ... 16

Mr. ... 12/12/38

Sir G. Tomlinson.

Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

Handwritten: Prod. 10/1938 file 89

38087/2A/38.

Downing Street.

21. December, 1938.

Handwritten: 17th Dec

DRAFT.

conson.

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KENYA

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CONFIDENTIAL

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and Passport Control Officers.

Handwritten: Copy 7.O. LF ...

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to T.T. N.A. &
Nye of files

Handwritten: Copy to P.O. No. 20

C. O.

38087/2A/38.

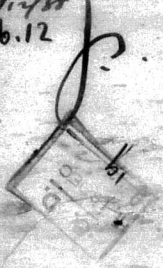
Mr. Costley-White 12/12
Mr. ~~Passin~~ 14/12
Mr. ~~Embroke~~ 15/12
Mr. ~~Hibbert~~ 15/12
M: ~~Frazer~~ 16
Mr. ~~J. Dixon~~
Mr. ~~Tomlinson~~ 16/12/38
Mr. ~~Dobson~~ 16.12

Ans'd: 1a/1938 file
89

Sir G. Tomlinson.
Sir J. Shuckburgh.
Perm. U.S. of S.
Parly. U.S. of S.
Secretary of State.

Downing Street.

21. December, 1938.



17th Dec

DRAFT.

conson.

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Kenya

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CONFIDENTIAL

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(7)

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(w/o sub)
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See 2463/38 genl attached.

FURTHER ACTION.

Recirc. in red

Copy F.O. Ltr. for info.

*Copy will be sent to
T.T. N.A. &
Nye of India
- [Signature]*

*Copy to F.O.
[Signature]*

3. I have observed from paragraph 5 of your (1)

confidential despatch of the 5th August that instructions have been issued that, for the purpose of Section 40 of the Immigration Restriction Ordinance, a valid passport is to be interpreted as meaning "a full national passport or a document carrying a 'return visa', or visa to enter another country", and

that this stipulation applies to all immigrants. My legal advisers take the view however that the provisions of Section 40 of the Ordinance afford no authority for this instruction. On the other hand,

in the case of "prohibited immigrants" as defined in Section 5, it is arguable that it is within your discretion to make the issue, under Section 11, of a

conditional permit to enter the Colony conditional on the possession of such a document. If however you have not already done so, your legal advisers should be consulted on this point, and I should be glad to be informed of their advice.

4. Whatever the legal position may be, however, the fact remains that in the letter of the 5th August of Dec. that, in the case of admitted refugees from Germany, it is

virtually

If by this is meant that a passport for the purposes of § 40 must on the face of it enable the holder to return to his Country of origin,

to refuse entry although the immigrant holds a £50 or £100 gratuity board. If this is the case it might be possible to make it a condition of entry under § 11 that the immigrant is a person who returns to his own Country if necessary

C. O.

- Mr.
- Mr.
- Mr.
- Mr. A. J. Dewe.
- Sir H. Moore.
- Sir G. Tomlinson.
- Sir J. Shuckburgh.
- Permi. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

DRAFT.

virtually impossible for them to be returned to their country of origin even though they may be in possession of German passports endorsed with a "return visa". In the very cases therefore with which this stipulation was designed to deal, the protection afforded by it is illusory.

5. In this connection I would invite reference to the last paragraph of my circular despatch of the 1st December in which I said inter alia that I should "greatly deprecate the introduction of any restrictions expressly designed to render the entry of refugees from Germany more difficult."

6. In all the circumstances I trust that you will agree to withdraw the requirement that immigrants must be in possession of a passport bearing a return visa or a visa enabling them to enter

FURTHER ACTION.

enter another country. The withdrawal of this requirement would not, it would appear, seriously restrict your powers to control the immigration of refugees ^{if there is a discretion under §11,} since it will remain possible ~~to~~ ^{to} refuse permission to ^{enter the Colony} ~~immigrate in each~~ ^{except in} individual cases ^{where} ~~by continuing to insist upon~~ evidence ~~being forthcoming~~ that the intending immigrant is unlikely to become a public charge.

(Signed) MALCOLM MacDONALD.

HAUT COMMISSAIRE
DE LA SOCIÉTÉ DES NATIONS
POUR LES RÉFUGIÉS
PROVENANT D'ALLEMAGNE

HIGH COMMISSIONER
OF THE LEAGUE OF NATIONS
FOR REFUGEES COMING FROM
GERMANY

16 NORTHUMBERLAND AVENUE, W.C.2.

D/AT.

6th December 1938

J.G.Hibbert Esq.,
Colonial Office,
Whitehall,
S.W.1.

3039
Ans 64.

Dear Mr. Hibbert,

I have received a letter from Mr. Dennis Cohen of the German Jewish Aid Committee about the policy of the Kenya Government in respect of Jewish emigration and about the "rather pathetic case" of Theodor Petjan.

2 It appears from Cohen's letter that the policy of the Kenya Government was at first a little too liberal, but that it has gone to the other extreme, and requires that all those who wish to emigrate to Kenya should have the right to return to their country of origin. This requirement has therefore completely stopped normal Jewish immigration from Germany.

3 Exceptions appear to be made to this rule, but only when the refugee arrives at Mombassa, and after strenuous special pleading has been made on his behalf. Cohen says that this is an unsatisfactory procedure because his Committee naturally likes to know whether the emigrant will

2.

be allowed to land before going to the expense of financing his journey.

Mr. Cohen goes on to say:

"A rather pathetic case has arisen with a man named Theodor Petjan who actually has a definite offer of employment from a Captain Harries of Kenya but whom our Committee advised should not be sent out as the Government will not allow him to land unless he definitely has the right to return to Germany."

4 Do you think Sir Neill Malcolm ought to take up this matter with the Kenya Government, or can you advise me to whom I should write?

6 I have seen a copy of Paskin's letter 38232/5/38 about the scheme of "Plough Settlements Association Ltd." for training 30 German Jewish settlers in Kenya. It seems satisfactory, but very expensive.

Yours sincerely,

Duncan

FOREIGN OFFICE,
S.W.1.

1st December, 1948.

Sir,

10. With reference to your letter (S8087/EA/38) of the 10th November regarding the immigration of Jewish refugees into Kenya I am directed by Viscount Halifax to transmit to you herewith to be laid before the Secretary of State for the Colonies the draft of a circular despatch which, subject to Mr. MacDonald's concurrence, it is proposed to address to His Majesty's Consular and Passport Control Officers. His Majesty's Consul at Basle is moreover being requested to furnish a report on the case of the refugee Liebenstein to which your letter specially refers.

7. In this connexion I am to invite your attention to the fact that many of the British overseas governments appear to be laying down as one of the conditions for the grant of a visa to a German or former Austrian national for entry into their territory that the passport of the person concerned shall be valid for readmission to Germany or that it shall be clear that no doubts exist regarding such readmission.

8. I am to point out that in the case of refugees, irrespective of the validity of the passports they hold, this condition

The Under-Secretary of State,
Colonial Office.

Copy to Kenya (12)

condition cannot possibly be fulfilled, and that to insist upon the return to Germany in any particular case of a person in this category would probably involve his lifelong imprisonment or incarceration. In fact the return to Germany of a person of the refugee class is a matter which cannot on humanitarian grounds be regarded as a practical proposition, and the insistence by colonial authorities upon this condition negatives at once any arrangements they may have made regarding the admission of refugees.

4. I am to request that, provided Mr. MacDonald sees no objection, the position may be explained to the colonial governments concerned with a view to the modification of their conditions in this connexion in order to assist His Majesty's Government in the efforts which are being made towards the settlement of refugees of suitable types in His Majesty's dominions.

I am,

Sir,

Your obedient servant,

(Sgd. R)

December 8

Circular

V. Consul and
6.

Visas for refugees from Germany entering
British Colonies and other self-
governing British Protectorates and selected
countries under British
administration by His Majesty's Government in
the United Kingdom for which visas are
generally required.

With reference to reports of the
Department of Immigration of Kenya, April,
1968, information has been received from the
Government of Kenya that many cases have
occurred recently in which visas have been
granted, without prior reference, to refugees
whose maintenance in the colony was not assured.
It has, therefore, been necessary for the
Government of Kenya to refuse admission on the
arrival of the refugees in question.

It is requested that you advise the
Government of Kenya of the above-mentioned matter. In
the event of any further information being received
concerning this matter, please advise the
British Consulate, Nairobi.

to the title of the territory concerned,

where there is any doubt as to the possession of adequate means on arrival, or as to re-admission to German territory. In this connexion it should be remembered that the purpose of any immigration deposit which may be required is to pay for repatriation, if necessary. The possession of the sum required as a deposit is therefore not to be regarded as evidence of the possession of "adequate means" for the purpose of paragraph 2 of the above-mentioned circular.

3. In considering whether there is any doubt as to re-admission into German territory, account should be taken of the length of the remaining period of validity of the applicant's passport. But it is clear that a refugee is not likely to be able to return to Germany even if his passport is valid for a considerable period. Prior reference to the authorities of the territory concerned should therefore be made in all cases where it appears that the applicant is a refugee.

C/Regd. on
38232/5/38 Kva.

(Ref. 68 on Pt. I: Trs. comments on precautions necessary for regulated influx of Jews for agricultural settlement, w/ memo. on immigration restrictions.)

The Governor of Kenya fears that following the publicity given by the proceedings at the Evian Conference, a large number of individual Jewish refugees will endeavour to get into the Colony.

Under the present regulations, which are summarised in the annexure to the despatch, the immigration authorities in the Colony can only stop the entry of an immigrant of good character from Europe - who is possessed of the sum of money (£50) required by the regulations or can find surety for same - if he has not got a "valid passport or other document satisfactorily establishing his identity, issued to him by or on behalf of the Government of which he is a subject and duly visaed or endorsed for the British Empire or the Colony". With regard to the quoted stipulation, the Governor explains that the phrase "valid passport" is interpreted by the local authorities as meaning a full national passport or a document carrying a 'return visa' or a visa to enter another country. It is however open to the immigration officer to issue a conditional permit for a period of one year if the immigrant has no visible means of support or is likely to become a pauper or public charge. The £50 deposit is intended to provide for his repatriation.

Now, so far as I know, the German authorities are at present determined that no Jew whom they allow to leave Germany shall ever get back again, and I believe that they absolutely decline to give them any sort of return visa. There are, however, a

number

number of Jews who have got out of Germany and taken refuge in other countries, and the United Kingdom has just ratified an International Convention which provides inter alia that countries of refuge may issue a special form of travel document to refugees coming from Germany which shall take the place of a passport and which entitles the holder to leave the country of refuge and to return to it within a certain period. This Convention has just been sent to Colonial Governors, who have been asked to state whether they agree to it being applied with or without modifications to their territories (circular of 11th August, 1938 - copy within).

The Governor of Kenya in paragraph 4 of his despatch takes the view that the immigration officer would be justified in refusing a conditional permit, - even though the refugee possessed the required deposit in Kenya if the refugee was a stateless person and could not be repatriated on that account. The relevant part of the definition of "prohibited immigrant" in this connection reads "any person without visible means of subsistence and any person who is likely to become a public charge". It would be stretching the interpretation of this definition very far to prohibit the entry of any German Jewish refugee of good character, - who can produce evidence to show that he can make a living or will not become a public charge, - merely on the ground that he is stateless, and I think we ought to oppose this proposal strongly.

The latter part of the despatch deals with the question of doctors, and Mr. G. G. G. and Dr. O'Brien may be able to help with observations. I should however invite their special attention to the proposal at A in paragraph 10 of the despatch and the remarks in paragraph 11. In regard to the latter, I would remark that the Home Office would not have taken steps to restrict the establishment in practice of foreign practitioners in the United Kingdom unless there had been a danger of glutting the market. It is surely not right that a Colonial Government should take steps to prevent any foreign practitioner who fulfils the requirements of its Medical Practitioners Ordinance from practising if there is room for him and there is not already a glut of doctors.

The immediate action to be taken on this despatch is, I think, for copies to be sent to the Foreign Office and the Home Office for their observations. In the case of the Foreign Office, a copy of the earlier despatch, Conf. 114 of the 18th August, should be sent.

(Sd.) J. G. HARRIS

12/5/38.

With regard to the question of doctors dealt with in paragraphs 9 and 10 of the despatch, the Kenya legislation with regard to the registration of medical practitioners reads as follows:-

"The following persons shall be entitled to registration under this Ordinance as medical practitioners:-

- (a) the holder of any British, British Colonial or British Colonial degree, diploma or licence entitling him to registration in the United Kingdom;

medicine and surgery of any medical school in Europe, the United States of America, or the Empire of Japan, the degrees, diplomas and licences of which are recognised as entitling to registration by the General Council of Medical Education and Registration in the United Kingdom".

We are really concerned here with European medical diplomas and of these only an Italian diploma is registrable in this country. Holders of other diplomas, in order to secure registration in the United Kingdom, have to undergo a course of study in this country of one year followed by an examination. The Kenya Government of course know all this and what is worrying them is that with the present aggravated state of the refugee problem a large number of German or Austrian refugees will not find it very well worth their while to undergo this extra year of study in the United Kingdom, and secure registration with a view to proceeding to Colonies such as Kenya.

It is fairly obvious that the remedy proposed by the Kenya Branch of the British Medical Association (see paragraph 8 of the report) will not do as it would be contrary to the Convention of St. Germain-en-Laye, even if it were expedient on other grounds, and, that with the Kenya immigration laws as they are at present, control of the influx of qualified foreign doctors into Kenya will depend on the facilities exercised by the United Kingdom authorities in allowing foreign doctors to undertake the further year's study which is necessary for registration in this country.

I therefore had a talk with Mr. Clayton of the Home Office on what was going on in this country in the matter, and as a result I do not think that Kenya have any cause for alarm. In the first place Mr. Clayton tells me that it has been decided to extend the further course in this country necessary for registration from one year to two. In the second place it has been decided to impose a very strict limit on the number of foreign doctors who will be allowed to enter this country for the purpose of undertaking this course. The Home Office have received 1500 applications from Germans or Austrians to enter this country for the purpose of undertaking the course, and they propose, with the assistance of the General Medical Council, to select 50 of these who will be allowed to practise in this country afterwards, and to reject the others. In addition to these 50 the Home Office will of course be prepared to admit applicants who can furnish satisfactory evidence that at the end of their course they have some country to which they can proceed for the purposes of practising their profession. If, therefore, a foreign doctor applied for admission to this country in order to take the course on the ground that he intended ultimately to proceed to Kenya, the Home Office would ask him for evidence that he would be admitted to Kenya, and I gather that nothing short of a statement from the Government of Kenya to the effect that they would admit him would be accepted as evidence. All the Kenya Government has to do, therefore, a grant of a licence to a foreign doctor is to ensure that he is a qualified medical practitioner.

If on the other hand the Kenya Government were to say that they were prepared to admit a specified number of such doctors, and, assist in the

by the local Branch of the British Medical Association, were to select that number from the applicants, the Home Office would be very ready to admit them to this country for the further two years' study. I am not sure that it would not be a good thing if Kenya, both in its own interests and as some contribution to the refugee problem, were to decide to admit a limited number of German or Austrian doctors in this way, but this is a matter rather outside my province. I have not held up these papers to try to find out how many registered medical practitioners, outside Government Service, there are already in Kenya, but as far as Government medical officers are concerned it might be no bad thing to deprive them or part of all of their private practice as a result of an influx of non-Government doctors in this way.

I told Mr Clayton that we should probably be writing to him officially in connection with this despatch, and this minute is not intended to take the place of official Home Office observations.

? proceed as proposed by Mr Hibbert.

(Signed) E.B. Bowyer.

18.8.38.

Dr O'Brien is away until 1/9 and he should see this. Perhaps it could come back later.

(Signed) A.G.H. Smart.

19 Aug., 1938.

I have discussed with Mr Hibbert who agrees that before any further action is taken it would be as well to get the Legal Adviser's

the last sentence of paragraph 4 of the despatch and of the instructions mentioned in paragraph 5.

(Signed) E.R. Surridge.

19.8.38.

His Majesty's Eastern African Dependencies

TRADE & COMMERCE
GRAND BUILDINGS, TRAFALGAR SQUARE, LONDON, W.C.2

Nov. 14th 1938.

SIR,

With reference to paragraph 3 of your letter of 11/3/38 dated the 15th August, I have the honour to bring the following to your notice.

While in Berlin in connection with the selection of Jewish refugees for settlement in Kenya, I was in close contact with many of the leading Jews.

From what I learned it would appear that the German Government are issuing passports with return visas, to many Jews wishing to emigrate, but the intending emigrants are at the same time being forced to sign an undertaking that they will never return. This latter fact they are forbidden to divulge.

If the appalling state of terror and despair in which Jews in Germany and Austria are at present living, is realized, it will be understood that such emigrants will under no circumstances return to either of the above countries. In fact many would commit suicide rather than do so, and it would be more than difficult for them to go elsewhere. It would seem therefore that the conditions laid down in paragraph 5 of the above letter may not be the safeguard it is intended to be.

There are numbers of Jews not only in Germany, but also in Poland and Czechoslovakia who are anxious to emigrate, and who can take with them a small amount of capital, or whose friends in this country are willing to provide them with a little money, and I am continually being asked what is the minimum

The Hon'ble the Commissioner for Local Government Lands and Settlement
P.O. Box 339
NAIROBI.

24 Fol 20

amount with which a married couple or a single person will be allowed to enter Kenya. I have also been asked for information on this subject by the Passport Authorities in Vienna. I would be grateful if I could be informed with the least possible delay what reply I am to give to these enquiries. A definite sum should be fixed.

I have the honour to be,

Sir,

Your obedient servant,

KENYA URGENT.

As these unfortunate people cannot afford to risk embarking for Kenya to find on arrival that they may not land, something must be done quickly. In some cases the intending emigrants have passports with a visa for Kenya 'subject to immigration regulations' and they naturally require definite information.

The Hon'ble

The Commissioner for Lands and Settlement.

NAIROBI.

C. O.

- Mr. Paskin. 9/x1
- Mr. Hubbard 9/11
- Mr. Bagg 9/11
- X Mr. A. J. Dave 9/11
- Mr. H. Moore.
- Sir G. Tomlinson
- Sir J. Shackburgh
- Perm. U.S. of S.
- Party U.S. of S.
- Secretary of State

DOWNING STREET.

10 November, 1938.

Immediate

Sir,

I am etc. to refer to

DRAFT.

THE UNDER SECRETARY OF STATE,
FOREIGN OFFICE.

(5)

your letter No.W.12288/104/98 of the 19th of October in regard to the precautions being taken in Kenya to restrict and control the immigration of Jewish refugees, and to transmit to you, for the information of Viscount Halifax, the accompanying copies of telegraphic correspondence with the Governor in regard to the case of a refugee named Liebenstein.

It will be observed that,

in spite of the instruction

in paragraph 1 of the Circular, to
 of the 25th of April 38
 His Majesty's Consular and

No. 12934

To Governor - 1st November
(13) on /20.

To Governor - 2nd November
(14) on /20.

From Governor - 3rd November
(15) on /20.

To Governor - 7th November
(16) on /20.

Copy sent to Kenya (16)

~~12/11/38~~
(Copies h.w.).

FURTHER ACTION.

Copy of this letter
 without cover page
 on the good file
 relating to the case
 8/28/4/38

Passport Control Officers, ~~of the 28th of~~
~~April 1939~~, that no visa for entry into
 Kenya should be granted, without prior
 reference to the Government of Kenya.
 in any case in which there is a doubt whether
 the applicant would be in possession of
 adequate means on his arrival in the colony,
 or as to his readmission to German territory,
 a visa was granted in this case by His Majesty's
 Consul at Basle, (although this man's German
 passport was due to expire in April, 1939, and
 his resources over and above the immigration
 deposit of £50 amounted to only £9. 14. 0. It
 is understood that his passage to Mombasa was
 provided by some charitable organization.

3. It will also be observed from the
 Governor's confidential telegram No. 176 of the
 3rd of November that, in many similar cases recently,
 admission ^{has} ~~been~~ ^{is} ~~been~~ ^{to} ~~been~~ ^{the} ~~country~~ ^{had} ~~been~~ ^{been} ~~refused~~ and that the
 matter has been taken up by the Government of Kenya
 with the British Consulate concerned

It would therefore appear that it is
 desirable that the attention of British Consuls

C. O.

- Mr.
- Mr.
- Mr.
- Mr. A. J. Dawe.
- Sir H. Moore.
- Sir G. Tomlinson.
- Sir J. Shackburgh.
- Permt. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

DRAFT.

(1)

should again be drawn to the
 instructions in the Circular of the
 28th of April. In this connection
 I am to invite attention to the fact
 that, as was explained in the second
 paragraph of the Governor's
 confidential despatch No. 149 of the
 5th of August, the purpose of the
 deposit is to pay for repatriation
 if necessary. The possession of
 this sum, therefore, is not to be
 regarded as evidence of the
 possession of "adequate means" for
 the purpose of paragraph 2 of the
 Circular of the 28th of April.

5. In this particular case
 also attention is invited to the
 fact that Liebenstein's German
 passport was valid only until
 April, 1939, after which, presumably,
 it would not be possible for him
 to be deported to Germany.

FURTHER ACTION.

I am, etc.
 (Signed) J. J. PASKIN.

KENYA
196
CONFIDENTIAL

24 October 1938.

Sir,

I have the honour to refer to your Confidential despatch of the 23rd September, on the subject of the settlement of Jewish refugees in Kenya, and to forward a Memorandum submitted by the Executive Committee of the East African Indian National Congress on the "Immigration of Jewish refugees into Kenya", together with the covering letter addressed to you by the Hon. Secretary of the Congress.

2. Since you are fully conversant with the position, it appears unnecessary for me to comment in detail on the points raised in the Memorandum, and I would merely suggest that the Memorandum adduces no arguments such as to justify any alteration of the proposals which are at present in train.

I would add that paragraph 4 is founded on false premises, and that it is not the intention that an "economic subsidy" in any shape or form should be furnished by this Government, which is taking all possible steps to provide that the entry into Kenya of the persons concerned shall result in no charge falling on public funds.

3. The matter of the precautions necessary to ensure due regulation and control of the rate of immigration formed the subject of paragraphs 1 - 7 of Kenya Confidential despatch No. 149 of the 5th August, and I would take this opportunity of informing you that the Governor has established a Board for the purpose of advising the Commissioner of Police on such matters as may be referred

to/

THE RIGHT HONOURABLE,
MALCOLM MACDONALD, M.P.,
SECRETARY OF STATE FOR THE COLONIES,

to it for consideration in connection with immigration into Kenya. The Board consists of the Commissioner of Local Government, Lands and Settlement as Chairman and one representative each of the Kenya Association (1932) and the Association of Chambers of Commerce of Eastern Africa, and although it will not in form deal only with Jewish immigration, only such cases will be referred to it in practice.

I have the honour to be,
Sir,
Your most obedient,
humble servant,

A. DE V. WADE

GOVERNOR'S DEPUTY.

Memorandum

SUBMITTED BY

THE EXECUTIVE COMMITTEE

OF THE

East African Indian National Congress

TO THE

Secretary of State for the Colonies

on the

**"Immigration of Jewish Refugees
into Kenya."**

Revised
7th September, 1938

Memorandum

SUBMITTED BY

THE EXECUTIVE COMMITTEE

OF THE

East African Indian National Congress

TO THE

Secretary of State for the Colonies

ON THE

**"Immigration of Jewish Refugees
into Kenya."**

The passing of Austria under German control and the consequent persecution of the Jews in Austria has made many Jews homeless and destitute. Hundreds of Jews are seeking admission to various countries. European countries are opposed to any immigration of a large number of Jews in their countries. Even England which has always been hospitable to refugees has allowed a very restricted number of Jewish refugees to settle in England. The Refugees Settlement Committee has, therefore, announced its intention of settling a large number of these refugees in various parts of the British Empire. Such a scheme has been suggested for Rhodesia as well as Kenya. The protest of the former has been so vigorous that it is believed that it will not be forced on Rhodesia. The European settlers in Kenya seem to be approving of the scheme, not out of love for the destitute Jews, but mainly to swell the number of white settlers to such an extent as to justify and bring about a statutory reservation of the Highlands to be able to exploit more vigorously the natural resources of the land.

2 The Indian Community in Kenya has a great deal of sympathy with the plight of the Jews. As a subject race, Indians all over the world are in a better and more sincere position to offer their sympathy to an oppressed race. This is why in India itself there is no opposition or restriction to the immigration of Jews. A very large number of Jews have been settling down in India since the advent of Hitler to power. While having a very sincere sympathy for the Jewish refugees, the Indian community in Kenya cannot but oppose any scheme for settlement of Jews in Kenya.

3 A large part of the best lands of Kenya are in fact and partially by law reserved for Europeans of any nationality as against non-Europeans including the Indians and the Africans. Indians in Kenya have protested most energetically against this vicious and unjustifiable discrimination against non-European British subjects in favour of even those Europeans who owe no allegiance to the British Crown. This discrimination is at present justified by the Colonial office on the flimsy ground of "administrative convenience". Moreover, in law there is nothing even now to prevent a transfer of land by an European to an Indian so long as the Governor does not veto the transfer. The European settlers are demanding that the Highlands should be absolutely and permanently reserved for them by an order in Council. But this demand has not yet received the assent of the Colonial office mainly because the European settlers are few in numbers and only about 10% of the allocated portions of Highlands are under actual cultivation. An influx of a large number of European Jews will strengthen the hands of the settlers in trying to perpetuate this discrimination against British subjects. Indians in Kenya therefore strongly oppose the admission of Jewish refugees unless the present administrative restriction by which Indians are debarred from the Highlands is permanently removed. Land assistance is given by the Colonial Government that there will be no favour or other discrimination against Indians. It is outrageous to see a large number of foreigners driven out from their own lands to enjoy privileges which are denied to British Indians who have actively helped the development of this Colony at a time when their help was most needed. Such an open affront to the self respect of Indians is bound to have repercussions in India and may, in the end, prove harmful to the Jewish refugees themselves.

4 The position goes further than that as it is also proposed that in addition to permitting these Jewish immigrants into this Colony they are to be given economic subsidy in the shape of facilities for acquiring land, financial assistance and waiving of deposit or security under the Immigration Restriction Ordinance. Ultimately these concessions mean either directly or indirectly a charge on the finances of the Colony. The Indians and the Africans happen to be important sections of the tax payers and considered in relation to their capacity to pay they are proportionately already more heavily taxed than the European Community. The iniquity of assisted immigration would mean that the coloured people will be making a financial contribution for the extension of an iniquitous practice based on racial difference. It would virtually mean that we would be 'buying evil' and permanently imposing upon ourselves detrimental political and economic consequences.

5 Those who support the immigration of Jewish refugees in Kenya out of sympathy for their misfortunes are guilty of introducing worse misfortunes on three million natives in Kenya. It is most significant that these Jews are not acceptable to any country in Europe obviously because their influx would dislocate the economic life of the inhabitants of the country. It is most unfair that the Colonies, particularly Kenya where the natives have no voice in their own affairs should be obliged to receive refugees who are not wanted in countries where public opinion is reflected. The free consent of the natives of Kenya should first be obtained as their interests are bound to be affected adversely. Otherwise, what is happening in Palestine would in course of time happen in Kenya with much less justification. In course of time the natives will require more land. In fact, there is already such a shortage of land fit for cultivation that there are dangers of soil erosion and the natives are being compelled by law to sell off their cattle even at very unfair prices. The settlement of Jewish immigration will create new vested interests which may result in a forced partition of Kenya, as in Palestine, with the consequent unrest and misery for millions. The natives are too backward and passive to protest effectively against this proposed dumping of white men in their lands. It is the duty of those who called themselves their trustees to see that the trust is not betrayed, nor their loyalty to the British Government abused.

... many dominions in British Empire which do not allow Asiatics and even to settle on their territories. It is for these Dominions to invite the Jewish refugees to their lands. In Australia there is a real market for white settlers. It would be in the best interests of Kenya as well as Australia to divert Jewish immigration from Kenya to the latter country. It would be nothing short of a crime against the races of Kenya to give access and rights to what aliens whose traditions, culture and interests differ from theirs at the expense of the sons of the soil. To give these foreign refugees a privileged position denied to the Indians and the Africans is an insult to the honour of India and an irreparable injury to three million Africans. Such defiant violation of all principles of justice and humanity under the pretext of giving refuge to the persecuted will bring not only trouble in this unhappy country but will weaken the very foundations of the British Empire.

Nairobi,

27th September, 1938.

C. O.

Mr. Mack 27
Mr. Parkin 27
Mr. Abbott 28
Mr. Bowyer 28

28007
30

Mr. A. J. Dawe.

Sir H. Moore.

Sir G. Tomlinson.

Sir J. Shuckburgh

Permt. U.S. of S

Partly U.S. of S

Secretary of State

DRAFT. Consur.

Kenya
Comp.
Gov

FURTHER ACTION.

Sr:
I have etc to acknowledge the receipt of your confidential despatch of the 5th of August regarding precautions ~~necessary~~ to ensure the regulation & control of the rate of immigration into Kenya.
(1)
2. I note that you have given instructions under section 160 of the Immigration Restriction Ordinance that no persons ^(other than exempted persons) shall be permitted to enter the Colony without a valid passport or document carrying a return visa or a visa to enter another country. I am in communication with the Foreign Office & the Home Office on this point & also as regards the proposed amendment of section 6 of the Medical Practitioners & Dentists Ordinance & I shall address you again when

I am in possession of their views.
In the meantime I have ^{proposed} directed
to refer to you for direct answer
where possible, or for your observations
in certain cases, all applications
made to me for permission to
settle in Kenya.

I have.

6/8
Lungalia

Mr. Paskin.

1. I have spent a great deal of time going through these applications for permission to enter Kenya (they have accumulated and increased daily). The relevant general paper (7031/1/38) has not been, and is not now, available; I have, however, had a few minutes to look through it (on its way in red to Sir J. Shuckburgh) and the position is as follows:-

2. The Kenya despatch (registered on the general paper) informing us inter alia that henceforth no one would be permitted to enter the Colony without a return visa or a visa for another country, was referred for observations to the H.O. and F.O. on 13.8.38.

3. The F.O. reply has been received: it simply accepts the position and states that no fresh instructions to Passport Controls are necessary to enforce it. The H.O. reply has not yet come, and I rang them up to enquire when it could be expected, the H.O. said that their observations will probably be to the effect that if the new Kenya Passport ruling is rigidly enforced, the Colony's contribution to the solution of the refugee problem will be precisely nil. - since no refugee can get the visas required. In reply to my request the H.O. promised to speed up their reply.

4. It is conceivable that the Governor of Kenya will be asked to reconsider the new visa requirements. Until that point is settled, it is not possible to deal satisfactorily with these immigration applications.

5. The outstanding ones may be roughly divided as follows:-

- (1) Those referred by the H.O. and F.O. who have received

was regulated at (15) hence

* This is not the case, as Kenya is wanting the stipulation at X above in respect of the refugee settlement Scheme.

J.P.

received applications from persons already in this country, or through Passport Controls in Europe.

- (2) Requests for information as to requirements for gaining admission to Kenya.
- (3) Special cases, e.g. requests for help, recommendations from well-known people, etc.

I have discussed the problem with

Mr. Hibbert.

6. In the light of the foregoing, I suggest that the best way of dealing with the applications is as follows:-

- (a) All cases in (1) above - refer to Kenya for observations.
- (b) All cases in (2) above - reply by sending a statement of the entry regulations, including the new one which requires a return visa or a visa for another country.
- (c) All cases in (3) above - should be dealt with on their merits, referring to Kenya or answering direct as seems best in each case

These proposals are not very satisfactory, but in the circumstances and in the time available they are the best I can do. The applications outstanding are many and urgent, and we cannot await a decision on the new Kenya visa requirements.

If, therefore, you are prepared to approve this temporary procedure, I can proceed to deal with the applications individually on the lines indicated by means of suitable AFOs.

When the outstanding cases have been cleared up, it might be considered whether the minutes in General paper 7061/1/38 on the Kenya despatch registered above, might not be extracted at the first convenient

opportunity

now see M12
opportunity to 38232/5/38, and the H.O. and F.O. replies to the Kenya despatch also registered thereon, so that action on this question can be carried through in the East African Department.

Theresa Hill

26. 10. 38.

A summary of the
needs required is
available.

in the H.O. reply
to the Commission, the
reply will have to be
referred to Kenya.

In any further communication on this subject, please quote

No. W 12288/104/98

and address—

not to any person by name

but to—

"The Under-Secretary of State,
Foreign Office,
London, S.W.1.

FOREIGN OFFICE.

S.W.1.

19th October, 1938.

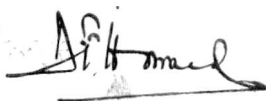
Sir,

I am directed by Viscount Halifax to refer to the letter from the Colonial Office No. 7031/1/38 Pt.III of the 12th September, regarding the precautions necessary to ensure the regulation and control of the rate of immigration of Jewish refugees into Kenya.

2. Paragraph 2 of the Passport Control Department's Circular No. S.12994 of the 28th April, a copy of which is enclosed for convenience of reference, lays down that visas should not be granted without prior reference to the Government of the territory concerned in cases where there is any doubt as to the applicant's re-admission to German or Austrian territory, or in any other case of doubt. Attention is drawn to this Circular in the new section regarding Kenya to be inserted in the revised edition of the summary of visa regulations which is now being prepared. Lord Halifax considers that the existing instructions on the subject thus provide precautions adequate to ensure the proper control of the rate of immigration of Jewish refugees into Kenya, and that it is therefore unnecessary to issue further special instructions to Consuls and Passport Control Officers, as suggested in paragraph 6 of the Governor of Kenya's despatch No. 149 of the 5th August.

Am. 10

I am,
Sir,
Your obedient servant,



The Under-Secretary of State,
Colonial Office.

CIRCULAR.

PASSPORT CONTROL DEPARTMENT,
FOREIGN OFFICE.

April 28, 1938.

For official use only.

Visas for Holders of German and Austrian Passports entering British Colonies which are not fully self-governing, British Protectorates and Protected States and Territories under Mandate administered by His Majesty's Government in the United Kingdom for which Visas are ordinarily required.

VISAS are now necessary on Austrian passports and, as from 21st May next, on German passports for entry into British Colonies, &c., as above mentioned.

2. It is not proposed at this stage to issue any special detailed instructions regarding Colonies, &c., but in any case in which there is doubt whether the applicant will be in possession of adequate means on his arrival in a Colony, &c., or as to his re-admission to German or Austrian territory, or in any other case of doubt, visas should not be granted without prior reference to the authorities in the territory concerned. Landing in each case will be subject to compliance with the local immigration regulations.

3. Pending any further instructions, visas will not be necessary on Austrian and German passports for entry into British Dominions and self-governing Colonies which do not at present require visas for these nationals.

4. The fee to be charged for the visa will be the standard fee of 10 francs (gold) for an ordinary visa and 1 franc (gold) for a transit visa, both ordinarily valid for one year, in accordance with the general visa instructions.

H. E. SPENCER.

His Majesty's Consular and Passport
Control Officers authorised to
grant Visas.

(V/20/1938)

Draft

7051/1/38

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

Sent 1 p.m., 25th August 1938

No.113. Confidential.

Immigration regulations. It is assumed that the instructions referred to in paragraph 5 of your confidential despatch No.149 are not intended to mean that immigrants who are nationals of countries with whom His Majesty's Government has a visa abolition agreement applicable to the Colonies must now have their passports visaed for the British Empire or the Colony but that they will be permitted to enter Kenya provided the immigration regulations are complied with if they are in ~~possession~~ *possession* of a full national passport endorsed for the Colony or the British Empire. A reply to this effect has been given to an inquiry from the Passport Office in connection with passengers leaving England on the 27th August by the Imperial Airways machine. Imperial Airways had been informed by their Kisumu representative that all passengers of foreign nationality for Kisumu and beyond would require a visa for the British Empire or the Colony under regulations now in force. In due course a full reply to your despatch under reference will follow.

Orig on 7031/38 Genl

KENYA

No. 149

~~CONFIDENTIAL~~

5 AUGUST, 1938.

Sir,

7031/38 Genl

In my Confidential despatch No. 114 of the 18th June I informed you that I should have no objection to a carefully regulated influx of Jews into Kenya for agricultural settlement in reasonably small numbers, the rate of immigration to be determined by the speed at which they could be absorbed. I now have the honour to address you on the subject of the precautions necessary to ensure such regulation and control of the rate of immigration.

①

2. The accompanying memorandum summarizes the immigration restrictions in force in Kenya under the Immigration Restriction Ordinance. At the present time the law (section 11 of Chapter 62 of the Revised Edition as amended by section 9 of Ordinance No. LX of 1930) provides that a conditional permit to enter may be granted to any person who is likely to become a public charge, provided that he deposits with the immigration officer the sum of £50 in cash. The purpose of the deposit is to pay for repatriation, if necessary. It is not to be confused with evidence of means. If the immigrant cannot be repatriated because he is stateless the deposit is worthless as security that he will not become a public charge.

5. In view of the number of enquiries being received from European Jews both by this Government and by the Trade and Information Office in London, there appears to be good reason to fear that the present

-1-

series ..

THE RIGHT HONOURABLE
MALCOLM MACDONALD, M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W. 1

serious situation of Jews in Europe coupled with the known willingness of this Colony to play a part in the solution of the problem, may result in attempts on the part of large numbers of the refugees to enter Kenya on conditional permits, taking advantage of the fact that hitherto such permits have been granted to all persons (other than natives of Asia or Africa) on a cash deposit of £50. Such uncontrolled immigration would create dangers for the Colony and hardship to individuals and would probably prejudice the chances of success of a properly organized settlement scheme.

4. I presume that in view of the Congo Basin Treaties it is not possible for this Government to make any differentiation against Jews as such in the matter of immigration restrictions. The discretion vested in the immigration officer to grant or refuse a conditional permit must, however, clearly be exercised in the light of circumstances. When the circumstances are that the applicant is a refugee and the deposit is valueless for its purpose, he is justified in refusing a permit.

5. Instructions have been given under section 40 of Chapter 62 of the Revised Edition as amended by section 5 of Ordinance No. XXIII of 1928 that no person (other than exempted persons) shall be permitted to enter the Colony unless such person is in possession of a valid passport or other document satisfactorily establishing his identity, issued to him by or on behalf of the Government of which he is a subject and duly visaed or endorsed for the British Empire or the Colony. For this purpose a valid passport is a full national passport or a document carrying a 'return visa', or visa to enter another country.

6. I suggest that the instructions set out in the preceding

preceding paragraph should be communicated to the Foreign Office for transmission to Consuls and Passport Control Officers in European countries, and that they should be informed that in the case of refugees likely to become a public charge no visa for the Colony should be granted without prior reference to this Government, since in such cases, even though the cash deposit is forthcoming, entry under permit may be refused.

7. These instructions have been given with the object of ensuring effective control and in no way for the purpose of placing difficulties in the way of a properly planned and regulated scheme of settlement, in which the Colony is prepared to co-operate. I anticipate that such a scheme would provide for the admission of a stated number of Jews annually, regulated according to 'economic absorptive capacity', and that the allotment of this quota to individuals or families would be carried out by a Jewish organization in London.

8. I take this opportunity of informing you, in regard to the possibility of an influx of Jewish doctors from Germany and Austria, that this Government has been requested by the Kenya Branch of the British Medical Association to amend Section 8 of the Medical Practitioners and Dentists Ordinance (Chapter 118 of the Revised Edition), by virtue of which the holder of a British degree entitling him to registration in the United Kingdom is entitled to registration in Kenya, so as to provide that no doctor of non-British nationality qualified for registration in the United Kingdom shall be eligible for registration in this Colony unless his qualification was obtained after three years' clinical study in the United Kingdom.

9. In support of this request it is represented
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by the Council of the Kenya Branch of the Association that recent political events in Europe are likely to lead to an influx of foreign medical practitioners into Kenya. One German-Jewish practitioner has recently been admitted, and a number of enquiries have been received by the Medical Department from foreign doctors in this connection. The Council adds that permission to practise is granted to foreigners on more easy terms in the Colonies than it is in any of the Dominions or in the United Kingdom, where it is almost entirely forbidden. It is understood that steps have recently been taken in the Union of South Africa to introduce regulations on the lines now proposed by the Council for adoption in Kenya. This Colony is at present open to any doctor registered in the United Kingdom, such registration entailing only one year's study at a British Medical School and a British qualification, and thus offers one of the most promising fields among the Colonies to foreign doctors. The Council has requested Dr. J.L. Gilks, C.M.G., its representative on the Council of the British Medical Association in England, to take the matter up with the parent body in London.

10. The Attorney General has advised that such an amendment would be an infringement of Article 3 of the Convention of St. Germain-en-Laye, which provides inter alia that nationals of the Signatory Powers or of States, Members of the League of Nations, which may adhere to the Convention shall enjoy without distinction the same treatment and the same rights as nationals of the Power exercising authority in the territory, with regard to the exercise of their professions.

11. It appears that the action taken by the Home Office in England has effectively prevented the establishment in practice in the United Kingdom of all but a few foreign practitioners. No alteration has

been made by the examining boards in Great Britain in the prescribed course and length of study preparatory to the examinations conducted by these boards. Success in these examinations entitles a foreign practitioner to registration by the General Medical Council, which carries with it the right to practise in Kenya. It seems reasonable to assume that, unless the regulations governing length and course of study are made much more severe by the British examining boards or action is taken by the Home Office to restrict the entry of foreign practitioners into the United Kingdom for the purposes of study, numbers of foreign doctors will continue to seek eligibility for registration in the United Kingdom.

12. It is now understood that action has recently been taken by the Home Office to restrict the entry of foreign practitioners into the United Kingdom for the purposes of study. I should be grateful for information in this connection and for such advice as you may wish to give regarding the representations made by the Kenya Branch of the British Medical Association.

I have the honour to be,

Sir,

Your most obedient, humble servant,

R BROCKLEBROUGH

AIR CHIEF MARSHAL,

G O V E R N O R.

IMMIGRATION INTO KENYA

Immigration into Kenya of any person being or appearing to be of any of the classes hereinafter defined is prohibited:-

- (a) Any person without visible means of support, or any person who is likely to become a pauper or a public charge.
- (b) Any idiot or insane person.
- (c) Any person suffering from a loathsome or a dangerous contagious disease or from trachoma.
- (d) Any person who, not having received a free pardon, has been convicted in any country other than the Colony of murder or any offence for which a sentence of imprisonment has been passed for any term, and who by reason of the circumstances connected therewith is deemed by the Governor to be an undesirable immigrant, but this provision shall not apply to offences of a political character not involving moral turpitude.
- (e) Any prostitute, and any person living on or receiving or who may have lived on or received any part of the proceeds of the prostitution of others.
- (f) Any person who, in consequence of information received from any trusted source or from any Government, whether British or Foreign, through official or diplomatic channels, is deemed by the Principal Immigration Officer to be an undesirable immigrant; provided that every decision of the Principal Immigration Officer under this paragraph shall be subject to the confirmation or otherwise of the Governor in Council, whose decision shall be final.
- (g) Any person who has been ordered to leave the Colony.
- (h) Any person entering or endeavouring to enter the Colony who, not having received a free pardon, has been convicted in the Colony of murder or of any offence for which a sentence of imprisonment has been passed for a term of not less than six months.

Provided that the Governor may permit any of the persons mentioned in paragraphs (a), (b), (c), (d), (e) and (g) of this section to enter the Colony upon bonds, with or without securities, for good behaviour being entered into by or on behalf of such persons upon such conditions and as to such amount as the Governor may determine.

2. Any person appearing to be a prohibited immigrant under sub-paragraph (a) above and not coming within the provisions of sub-paragraphs (b), (c), (d), (e), (f) or (g) or (h) above may be granted a conditional permit to enter Kenya upon depositing:-

- (a) in a native's case, the sum of £10;
- (b) in the case of any other person, the sum of £50;

provided that in lieu of requiring such deposit security or bond may be accepted to the amount of such deposit with one or more sureties approved by the immigration authorities and resident in the Colony.

3. Conditional permits are cancelled and deposits returned, or bonds revoked, after a period of one year, provided immigrants satisfy the immigration authorities that they are unlikely to become charges on public funds and are not otherwise undesirable.

4. Immigrants must be in possession of valid passports or other documents satisfactorily establishing identity issued by or on behalf of the governments of which they are subjects and duly visaed or endorsed by the British Empire or Kenya Colony.