

1928

Kenya

No. *10051*

SUBJECT

CO 533/376

*Removal of European and Asiatic
business from Kenya to their
countries of origin*

Previous:

X 10051/27

Subsequent

*See 1325/28
10051/29
(N.W. Bill)*

1 India Office 23rd Jan 1928
States Govt of India are being consulted and
on receipt of their reply a further communication
will be made.

? Put by (Unnecessary)

an interim reply to Kanga?

(Enormous)

The concern referred to has already been
considered in connection with (057/12)

Wait for H.O. H.

M. Allen

28/1

stance

Ho

M. Allen

no reply yet received from
Home Office.

? Reminded of

all Sh 22
x 69 28

J.M.C.

2 To H.O. cons 20/3 24/2 at all 5/ ✓
25 FEB 1928

Ho may be saying that they were consulted
in 1914 as to their reply & that an error
is not their fault

(Enormous) 2/1

3

In minutes on X.10511/27 Kenya doubt was raised as to whether paragraph 1 of the Governor's Despatch of 14th October referred to Europeans of all nationalities. The Home Office solve this for themselves by assuming that the proposals relate solely to British subjects, and we can leave it to the Governor to explain if his intentions were wider than that.

At the end of the letter the H.O. express the view that no objection can be taken to the removal to the U.K. of British subjects who have become insane after immigration from this country to Kenya. This corresponds with the use of the expression "country of origin" ^{in P.L. 1948 White Paper}. It would appear that they will not contemplate the removal to this country of persons born in or naturalised in Kenya.

Apparently if the H.O. accept a lunatic ^{regard} they will ^{regard} the charge as one to be met from this country and not by the Government of Kenya.

We can perhaps now send something to the Governor whose despatch is 6 months' old.

Send him copies of the correspondence with the H.O. & I.O., saying it will be observed that the H.O. consider as in the last paragraph of their letter, and that ^{the} subject to the observations in their letter they ^{in case of the H.O. Dept} agree that he should take general legislative powers with this object. Say that the H.O. opinions will no doubt be very carefully borne in mind in framing any legislation on the subject.

As regards the I.O. promise a further letter when the views of the Indian Government are received.

Say

India Office 14 June 28
No copy reply received from Govt of India

Simply send copy to Govt in draft
refers to paying cost of case matters based the Govt
shows a the Govt of India in mind in forming
any report copy to H.O. 17
copy to H.O. 17

177

right to see
(Eaton)

He will take a U.K. license
back whether or no he has relatives
here who can... (C.O. worth
only take... after back if he
has relatives...
they put up...
they do...
... in the... for years

send a copy of the enclosure to the C.O.
letter of 21st June (M.P.). I am afraid a draft
I did not put in the sub enclosure was
for a draft of the document with
sent.

Steel
21-6-28

W. H. ...

Jan 11/28
(Belinda ...)

Belinda ...

clear to incorporate in
a dip in substance of
Govt. of India letter enclosing
copy of the same from
Ministry to US Govt. ref. a.
(Minwell advised a means
to make a list comparing ref. a.)
~~_____~~

Dip consist.

11. 11/11/28
12. 11/11/28

8 20 Gen 522 (w/ copy) 23 JUL 1928

9 40 (w/ copy no 8) 24 JUL 1928
10 26 (w/ copy) 24 JUL 1928

Noted in process
Book C
in A. B. Boyd to note
JAB 10/1/28

be ascertained whether the patient

in question will be admitted to

India. The Government of India

desire, however, that it should

also be understood (a) that before

they could agree to the repatriation

of a lunatic to India they would have

to satisfy themselves after enquiries

that the lunatic had relatives in India

who were willing to receive him; and

(b) that they could not agree to

receive back a lunatic who had been

resident in Kenya continuously for

a period of five years.

In this connection the Government of

India draw attention to Lord Reading's

letter to the Gov. General of the Union

of South Africa dated the 13th January 1922,

~~which is enclosed for~~

~~reference of reference.~~

(It seems probable, however, that having regard to C.D. practice a copy of this was enclosed in the previous despatch to Kenya).

3. You will doubtless bear

0

Memorandum of the
the Government of India in mind in
framing the proposed legislation; and
I may remind you that, as suggested in ^{the} para. 3 of your despatch under reference,
it will be desirable that any such
legislation should be referred to me
in draft form.

I have, etc.,

(Signature) _____

Any further communication on this subject should be addressed to—
The Under Secretary of State for India,
Economic and Overseas Department,
India Office,
London, S.W. 1.
and the following reference quoted—
E & O. 3950/28.



INDIA OFFICE,
WHITEHALL,
LONDON, S.W. 1.

RECEIVED
16 JUN 1928
COL. OFF

14th June, 1928.

Sir,

With reference to your letter of the 14th January 1928, No. 10511/27, and connected correspondence, on the subject of the removal of European and Asiatic lunatics from Kenya,

I am directed by the Secretary of State for India to transmit, for the information of the Secretary of State for the Colonies,

dated 24th May, 1928.) copy of a letter received from the Government of India.

2. The Earl of Birkenhead would be glad, should Mr. Secretary Amery see no objection, if a reply could be sent to the Governor of Kenya on the lines indicated in the Government of India's letter. A copy of Lord Reading's letter to the Governor-General of the Union of South Africa dated 13th January 1928, to which reference is made in the Government of India's letter, was enclosed with the letter from this Department of the 23rd January 1928.

Your obedient servant,

E. Turner

Secretary,

Economic and Overseas Department.

The Under Secretary of State, 4

COLONIAL OFFICE.

Health and Lands, No. E. & L. O. 4204, dated the 27th July 1928.

I have the honor to be,

Sir,

Your most obedient servant,

Sd/- J.A. SHILLIDY,

Offg. Joint Secretary to the Government of India.

- Mr. Seel
- Mr. ~~Bottomley~~
- Mr. ~~W...~~
- Mr. Bottomley
- Mr. E. J. Harding
- Sir J. B. Woodberry
- Sir G. Grange
- Sir O. Davis
- Sir S. Wilson
- Mrs. Ormsby-Gore
- Lord Local
- Mr. Amery

Downing Street

23 April, 1928.

Sir

I have etc. to refer to your despatch No. 678 of the 14th of October, 1927, and to transmit to you

16051/28

DRAFT

KENYA

No. 286

Gov. Gries

10.4.0. 17.0.14 Jan.
 Non 6.0. 23 Jan.
 Non 4.0. 28 March

1/16
 25 APR 1928
 10/4

the accompanying copies of correspondence with the Home Office and India Office, as noted in the margin, on the subject of the removal of lunatics from Kenya to the United Kingdom of India.

You will observe from the letter from the Home Office dated the 28th of March that the

~~Home Secretary of State for Home Affairs~~ is of opinion that if after enquiry it appears that better arrangements for a patient's care and maintenance can be made in this country than in Kenya, no objection can be taken to the

Copy to H.O. and C.O., L.P., inf.

2 ~~forward~~ enclos
OK

the removal to the United Kingdom

of any British subject who has

become insane after emigration from

this country to Kenya; and that he

generally concurs in the proposal that the Government

of Kenya should take general legislative

measures with this object, subject to the

being made clear that every effort

should be made to ensure that

insane persons whose British

nationality is derived from birth or

naturalisation in some part of His

Majesty's dominions other than the

United Kingdom shall be sent not to

this country but to that part of

His Majesty's territory to which they belong.

3. You will no doubt bear

in mind the observations contained in the

report of the Committee very

carefully in that it is *preferred* any

legislation

legislation on this subject. It will
be desirable that any such legislation
should be referred to me in draft form
in order that its terms may be
communicated to the Home Office and the
India Office for any observations which
they might have to offer.

4. I shall address you in a
further despatch when I have received
the views of the Government of India
upon your proposals.

I have, etc.

(Signed) L. S. AMERY



HOME OFFICE,
WHITEHALL.
28th March, 1928.

Any communication on the subject of this letter should be addressed to—

THE UNDER SECRETARY OF STATE,
HOME OFFICE,
LONDON, S.W. 1.

and the following number quoted:—

518,993/2.

RECEIVED
29 MAR 1928

Sir,

In reply to your letter 10511/27 of the 14th January last, covering a copy of a despatch with enclosure from the Governor of Kenya on the subject of the removal of non-native lunatics from Kenya to the United Kingdom or India, I am directed by Secretary Sir William Joynson-Hicks to say, for the information of Mr. Secretary Amery, that he assumes that the proposals relate solely to persons who are British subjects. If so, he concurs in the general sense of the reply which it is proposed to return to Sir Edward Grigg; but he thinks that it should be made clear that every effort should be made to ensure that insane persons whose British nationality is derived from birth or naturalization in some part of His Majesty's dominions other than the United Kingdom shall be sent, not to this country, but to that part of British territory to which they belong.

Sir William Joynson-Hicks will be glad if the Governor may also be advised that when a proposal to deport an insane British subject to the United Kingdom is referred to the authorities in this country for approval, he should forward - in addition to the usual particulars of place and date of birth and names of parents (including mother's maiden name) - the fullest possible information regarding the names and addresses of any relatives or friends of the patient in the United Kingdom, and the places in which he resided before leaving this country.

The Under Secretary of State,
HOME OFFICE

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country. These particulars are required for the purpose either of ascertaining whether the patient has any connections who would be responsible for his care and maintenance in the United Kingdom or, alternatively, of establishing his proper chargeability in this country.

It will also be convenient if, whenever possible, a photograph of the patient is forwarded at the same time.

If, after inquiry, it appears that better arrangements for the patient's care and maintenance can be made in this country than in Kenya, Sir William Joynton-Hicks does not think that objection can be taken to the removal to the United Kingdom of any British subject who has become insane after emigration from this country to Kenya.

I am,

Sir,

Your obedient Servant,

D. Robinson

INDIA OFFICE,



WHITEHALL,
LONDON, S.W. 1

14

23 January, 1928.

RECEIVED
25 JAN 1928

Further communication on this subject should
be sent to
The Under Secretary of State for India,
Economic & Overseas Department,
India Office,
London, E.C. 4,
and the following reference quoted:
E.O. G. 369/28

Telephone
Victoria House, 115, Strand, London, W.C. 2.
Telegrams
"Balaram," London.

Sir,

With reference to your letter of the 14th January, 1928, No. 10511/27, on the subject of the removal of European and Asiatic lunatics from Kenya, I am directed by the Secretary of State for India to state, for the information of the Secretary of State for the Colonies, that the Government of India are being consulted in the matter. On receipt of their reply a further communication will be made to you.

As regards the communication of particulars of cases to the Government of India, reference is invited to paragraph 1 of their despatch to the Governor General of the Union of South Africa, dated 13th January 1928, (copy enclosed), and to the correspondence ending with your letter of the 14th February 1926, No. 53229/26.

Your obedient servant,

Walter
For Secretary,
Economic & Overseas Department.

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

*4500 at 86 - 22 APR 1928
Sum of the 329
Copy need to be 31 July/28 by a*

Further communication on this subject should
 be addressed to
 The Under Secretary of State for India,
 Economic & Overseas Department,
 Overseas, India Office,
 and the following references quoted:
 E.O. 369/28



INDIA OFFICE,

WHITEHALL,

LONDON, S.W. 1.

14

RECEIVED
 25 JAN 1928

23rd January, 1928.

Sir,

With reference to your letter of the 14th January, 1928, No. 10511/27, on the subject of the removal of European and Asiatic Lunatics from Kenya, I am directed by the Secretary of State for India to state, for the information of the Secretary of State for the Colonies, that the Government of India are being consulted in the matter. On receipt of their reply a further communication will be made to you.

As regards the communication of particulars of cases to the Government of India, reference is invited to paragraph 3 of their despatch to the Governor General of the Union of South Africa, dated 13th January 1922, (copy enclosed), and to the correspondence ending with your letter of the 11th February 1926, No. 53229 25.

Your obedient Servant,

Edwin

for Secretary,
 Economic & Overseas Department.

The Under Secretary of State,
 Colonial Office,

3 W 1

28 APR 1928
 28 APR 1928
 27
 Copy made to Secy of 27/28/28

Enclosure No.1 in South Africa Despatch.

No.532 of 7th October 1922.

No.F.38/18-Jails.

GOVERNMENT OF INDIA,
HOME DEPARTMENT.

TO: His Royal Highness
Prince Arthur of Connaught, K.G., P.C., K.T., G.C.M.G., G.C.V.O.,
etc.,
Governor-General of South Africa,
Pretoria.

DELHI, the 13th
January 1922.

Sir,

I have the honour to acknowledge the receipt of Your Royal Highness' letter No.15/1090, dated the 20th October 1921, regarding the proposed repatriation to India of certain persons born in India who are at present confined in the Union Mental Hospitals in South Africa.

2. It is assumed that these persons are all pauper lunatics and that none of them are criminal lunatics to whom the Colonial Prisoners Removal Act, 1914 (Act No. 17 of 1914, Victoria G.31) would apply. It would appear also that, as they are being maintained in the Union Mental Hospitals in South Africa, even though in some cases they have relatives resident within the Union, it would be necessary to maintain them in asylums in India. It is therefore necessary to consider who will be responsible for meeting the cost of maintenance in asylums of these persons if they are returned to India. As Your Royal Highness is aware, the general rule in England is that the cost of maintenance of a pauper lunatic sent to an institution for lunatics is chargeable to the Union from which he was sent until it is established that he had obtained "settlement" in some other Union, and

"Settlement"

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"settlement" under the Poor Laws Acts is usually obtained after a continuous residence of 3 years. As a consequence of the introduction of a measure of responsible Government in India, provincial finances have been separated from the finances of the Government of India, and the maintenance of lunatic asylums is a provincial matter. It is therefore proposed to introduce in India a similar principle to that prevailing in England, by providing that the cost of maintenance of a pauper lunatic maintained in an asylum of another province shall be debitable in the first place to the province from which the lunatic was received but shall be ultimately borne by the province in which he was last resident for a continuous period of 5 years. Applying this principle to the

persons in question, it is observed that many of them have been resident in the Union for many years, and that there is only one case, a girl aged 10 years, who is shown not to have been resident in South Africa for as long as five years and in her case her father is now residing in South Africa.

3. In view of the length of time during which these people, with the one exception referred to above, have been resident in South Africa, I regret to say that my Government are unable to agree to their repatriation to India. There is further no provision in the Indian law which would enable the authorities of lunatic asylums in India to accept the certificates of doctors in other countries for the admission into lunatic asylums of persons brought into the country. The reception procedure under the Indian law would have to be resorted to for each lunatic as soon as he arrives in India.

4. The Government of India are, however, prepared to reconsider the question of the repatriation of these persons if further detailed information as to the relatives, now living in India, of each person, the province, district

and

17
END

and villages in which such relatives live, and the present mental condition of such person can be furnished. As regards the present mental condition of these persons the information should be sufficient in each case to indicate whether it would be possible to make them over to the care of their relatives.

If the information is supplied it will then be possible for the Government of India to make enquiries from their relatives in India, and in some of the cases it might ultimately be possible then to agree to their repatriation.

I have, &c.,

(Sd.) READING.

Viceroy and Governor-General of India.