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CONFIDENTIAL

Immigration into Kenya & Ugando

(36978/23)

In a despatch dated the 9th of August, 1923, the Secretary of State asked the Governor of Kenya to give early consideration to the question of immigration, and to formulate in consultation with the Govr. of Uganda proposals for giving effect to the policy (as stated in the White Paper for 1923) which His. Majesty's Government had decided upon for the protegation of the economic interests of the matives in Kenya and Uganda. The proposals should set out fully the procedure which it is desired to adopt, and special consideration should be given to the method by which a strictly impartial exemination of applications for entry can be best secured.

The dovernor of Uganda was at the same time asked to communicate with the Governor of Kenya with a view to arranging for a discussion for the formulation of proposals. In a telegram dated the 31st October, 1923, in which the Governor of Uganda conficured, the Governor of Kenya submitted proposals for a new Immigration Ordinance, and asked for approval, if possible, within eight days in order that the matter might be considered in the tuen Session of the Legislative Council.

(52984/23)

(52984/23)

The S. of S. replied on the 6th of November that he could not express any final opinion on a telegraphic summary of the measure, and that the time available gave no opportunity for consultation with the Secretary for India which was necessary before the Bill took effect. It was therefore suggested to the

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Governor that the Bill should be published in .. the Gazette for información and comment in the ordinary way, copies to be sent to the S. of St by the first mail; and elso to the Government of India for their information. The telegram also included certain suggestions for the alteration; of the Bill before publication, but these suggestions were not to be regarded as any final expression of the S. of S's. views, and might in some respectable based on/mistaken readings of the telegraphic summary. They were directed mainly to avoidance of suspicion as to possibility of race discrimination in the administration or the law, especially with reference tof "economic requirements of Colony" which might be regarded as repeating the economic suitability test objected to in the case of Southern Rhodesia.

The Bill was accordingly published in (56364 and 56534) ooth Kenja and Uganda on the 23rd November, 1923.

A copy of the telegraphic correspondence was sent to the India Office on the 17th November, 1923.

(57951/23)

The India Office is a letter dated the loth accember, 1923, deprecated maste in dealing with the matter, and pointed out that the bill embodied far reaching changes of more than local interest, and that before the S. of S. could express his views, it would be necessary for him to consult the Government of India. In the opinion of the S. of S. for India (which the Government of India shares), it would be expectively that the Crown Colonies Committee to be

sat up in nursuance of the descussions of the previous imperial Conference should be consulted. The views of the S. of S. for India could not be communicated for some time, and it was presumed that if the Bill were considered at the suggestion of the the hen Legislative Council, the Covernment would be instructed to withhold assent to it if passed until these views had been considered. It was suggested, however, that it would be easier to affect any necessary changes in the Bill if it had not already been passed. The S. of S. for India also felt strongly that the Bill should be considered not by the existing Legislative. Council, but by the Peromed Council.

On the 30th November, the Governor telegraphed that the only possible course appeared to be to pass the Election Bill in the last week in December and the Immigration Bill at a special session as soon as possible thereafter, but it should certainly not be postponed until the new Council meet. The Governor stated that there was likely to be considerable opposition if the two bills could not be passed simultaneously

but that this would be greatly minimised if early

(58512/23)

assurance could be given that important points of princtple would not be altered. He added that the Immigrat.on Bill had been well received locally, and that there was no criticism of importance.

On the 7th December, the S. of S. telegraphed to the Governor of Kenya saying that he was being strongly pressed to secure postponement of the Immigration Bill on the ground that the time available was insufficient for adequate consideration. The S. of S. fully realised the extreme desirability of

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proceeding with the measure at the same time as the Election Bill, but that he wished at the same time to be able to say that other parts of the settlement contemplated by the White Paper were also being treated as matters of urgency and asked what was being done on those points. The telegram added that it might at any time be urged on the S. of S. that the White Paper while recognising necessity for control of immigration, did not go further than to require the Governor of Kenya to submit propossis in consultation with the lovernor of Uganda, and that it seemed that the Indian Committee, which was to discuss Colonial matters :. with the S. of S. might be appointed earlier ther was expected, and that this possibility was teing used as another argument against immediate action.

Copies of further telegraphic correspondence were entit the India Office in a letter nated the Eth December/in which it was printed out that the arrangements indicated in the correspondence apparantly allowed amplestime for concludation of the general provisions of a new reasure before the session of the Legistative Council was concluded. It was added, no ever, that if it were found that important is since which could not be disposed of in the the vailable, the S. of S. would direct the Governor not to proceed with the Committee stage at the session in December, but to postpone that stage intil aceptal session could

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be held in January. It was also pointed out that the Governor considered that it was not possible to postpone the measure until the new Council met, and the letter expressed the S. of S's. opinion that for reasons which were given, he was unable to see any sufficient ground for postponement, or that any local advantage would be gained by such a postponerent until 🙀 could be considered by elected Indian members after the Jocal general election. The S. of S. feared that the worst impression would be created if he were to agree to approposal that the measure should be postponed pending consultation with the indian Committee, since it was made clear at the Imperial Conference that no hope could be held out of the Kenya decisions being reversed and postponement might imply that the possibility of their reversal was being seriously entertained,

Chapter (23)

A copy of the draft Bill as prepared for publication was received on the 10th December, and on 1923 the 15th December a further despatch dated the 23rd November/was received forwarding copies of the draft Bill as published for information. On the 12th of December the Governor telegraphed the aubstance of certain correspondence with the Indian Congress who had expressed the general opinion that the draft Immigration Bill was designed to restrict the immigration into Kenya of Indians, but whose only specific objection was to the exclusion of immigrants because of reports received from outside the Colony. The Governor noted that although the Indians maintained their general objection to the White Paper, there was the second of the second of the colony.

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been rushed through without adequate opportunity of their considering it and making representations, and that, in these circumstances, it was impossible for the S. of S. except for grave and compelling reasons, to authorise the immediate passage of the immigration. Bill. The telegram therefore asked what would be the consequences in the Governanta opinion in the svent of (a) the passing of both Bills being delayed beyond the 1st week in January, and (b) the passing of the Franchise Bill as proposed but postponement of introduction of Immigration Bill beyond first week in January.

(63022/23)

on the 27th December/the Covernor telegraphed refly to the S. of Sta. telegram of the 18th December explaining that he had delayed his reply in order to make full enquiry. The Governor reported that there was every probability of Indiana refusing to take part in the elections, and that Mr. Varma hed resigned from both Executive and Legislative Councils on general grounds, but that the passage of the Franchise Bill which is a generous measure in favour of the Indians would doubtless do much to ease the position as Tagards the Indians. In reply to the enquiry at the end of the S. of S's. telegram of the 18th December, the Covernor said it was necessary for the Franchise Bill to be pessed in the first week in January as other wise there would be no time to hold elections before the 21st of February when the term of the existing Council expired. The feeling of the elected members was that if the Bill were introduced soon after without substantial amendments they would not oppose the passage of the Franchise Bill in the first week of January.

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The last telegram was accompanied by a further personal telegram from the S. of S. of the 29th December/saying that the Governor would appreciate that he could only proceed without regard to the political contingencies here, and must request for delay of introduction of Bill solely upon the merite. He added that the S. of S. for India in supporting the appeal for more time for consideration had made it clear that postponement did not involve the question of modification of the principles laid down in the

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White Paper and members of the Legislative high

(29/1923-4)

On the 31st of December, 1923, the India Office forwarded a telegram received from the Viceral containing the preliminary opinion of the Government of India on the Immigration bill. The letter stated that the S. of S. for India proposed to defer his own coservations until he had received the considered views of the Government of India.

The following is a summary of the telegram from the Government of India but it may be noted that a copy of the telegram had been communicated to the Colonial Office semi-officially before the despatch of the S. of S's.

The Government of India stated that the text of the Bill dis not reach them until the 20th of December, and they mad no opportunity of discussing it in Council. Their oreliminary opinion was as follows:-'The Bill makes no provision for exemption of persons proceeding to Uganda, and if such restrictions/are contemclated, the Government of India must have time to consider them. Uganda cannot confer jurisdiction on Kenya Immigration Officer, and provision is necessary in this Ordinance for the exemption persons proceeding to Dganda. As the terms. he Bill were so general, and discretion Impleration Officer so wide, its effects depend on the manner of administration. the Government of India felt that there was ground for fear that its provisions are inely to be utilised mainly to exclude Indians,

They are confirmed in this fear by the criterion as to the economic requirements of the Colony in Clause 9 and by the fact that the category of employees specially mentioned in the White Paper formed the bulk of Indian immigrants at present, although only a very small proportion of Suropean immigrants. There was therefore an implied discrimination against Indians. The Indian share of the total trade of Kenya and Uganda amounted to one fifth, and was capable of considerable expansion, and it would be an intolerable restriction on this trade if Indian merichants were restricted from employing persons of their own nationality. The principle that an employer is to be compelled to take employees of a different.

and ity in whom he may feel no confidence is dangerous, and the restrictions on the entry of business men went beyond the intention of the White Paper which contemplated restrictions on small traders only. These principles, of accepted, might lead t retaliation in India. The Bill does not correspond with the White Paper as regards the understanding that every application for entry would be subject to a strictly impartial examination by a Board on which Indians would be represented, as well as Arabs and natives; the decision in individual cases being tleft. subject only to the appeal to the Governor in Council to the immigration officer who would presumably be a European. Deportation within three years coupled with, the regulations about security and deposits all tended towards Indian immigration being virtually prohibited. No exemption is made, as in the case of the Dominions, in favour of merchants, tourists and students visiting the Colony for temporary purposes and entering Colony in order to tall the land in the proposed lowlands

White Paper and members of the Legislative

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these cases nor for Indians of agricultural classes. Strong except must be taken to the enunciation of a new principle governing trade and commerce which is bound to have serious consequences, and if legislation is to be proceeded with many safeguards would be necessary to protect the Indian interests. The Government considered that in any case the Bill would be a perpetual source of friction between Kenya and India.

363/1923-4

(403 23-4)

On the 17th of January the S. of S telegraphed to the Governor that the Imagration. Bill had been considered in the Colonial Office. but the final views of the Government/had not The S. of S. wad advised that the zill was open to serious objection in form and in particular it does not achieve its purpose, i.e. no immigrant coul, be excluded under its provisions who does not come within the category of promibited immigrants under Clause 5 (r), that is, under provisions of the existing law. It was evident that the Bill would require revision and the S. of S. promised a despatch on the subject. In the meantime, the Bill must be left over, and statistics should be prepared shewing the number of persons of various races entering and leaving Kenya during 1923 A GOT In a despatch dated the 17th of January 1984,

the ciss forwarded to the Governor a copy of a memorandum by one of his legal advisers as to the failure of the Bill, as drafted, to carry out its object of adding to the categories of promitted immigrants under the existing taw.

This objection made it impossible to proceed at once with the enactment of a measure which, if the S. of S's legal advisors view was correct shired obvious signs of has ty preparation. The despatch drew attention to other considerations arising chiefly from the examination of the Bill in the Colonial Office; the final observations of the Government of India not having yet been received. Exception was taken to the wording of the preamble of the Bill, and the Bill should in the first place have taken general powers of exclusion. going on to provide that (1) persons within the categories mentioned in Clause 5 (i) were in any case to be excluded and (2) that other immigrants should only be admitted in accordance with the principles. 1 down. The Bill did not cover the objections that the administrative powers under the Ordinance would be centred in the Immigration and Employment Officer, and not in the Board, as contemplated in the White Peper. The provision in the Bill on the lines on which the administration of the Ordinance would proceed would be a matter of instructions by the Board was not sufficient to meet this point. Exception had been taken to an appeal lying only in the Governor in Council; no provision being made for appeal to the Court. The point that persons wishing to enter for purposes of agricultural occupations should be definitely brought within the operation of the Bill had not been sufficiently carried out by the new marginal note ("Trading and Farming Immigrants"). At the same time, it is to be understood even if no. definite provision is made that persons visiting the country for the purpose of investigating the possibing lities of farming or other occupations (in particular, natives going to Kenya in commection with the proposed

these ceses nor far Indians of agricultural classes. Strong exception must be taken to the enunciation of a new principle governing trade and commerce which is bound to have serious consequences, and if legislation is to be proceeded with many sateguards would be necessary to protect the Indian interests. The Government considered that in any case the Bill would be a perpetual source of friction between Kenya and India.

363/1923-4)

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(363/23-4)

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No provision is made in the printed draft for the case of persons entering Kenya in transit to other

(12692/23)

places, and particularly, Uganda, and the amenument subsequently communicated did not go far enough. The provision that the liability for giving security by cash deposits should be a matter of administrative discretion was particularly open to objection. Reference was made to the recent clause, and the S. of S. expressed the opinion that it would not be equitable to apply the new measure retrospectively. The despatch referred to the request in the S. of S's telegram of the 17th of January that the Governor should examine the actual position as to the immigra-

(363/23.4/

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(4712/24).

on the 29th of January, the Governor enquired by telegraph whether the despatched promised by the S. of S. had been posted and whether the views of the Indian Government had been obtained as the then Council would terminate on the 20th of February and it was very advisable that the Bills hould be introduced, if possible,

before that date.

The S. of S, replied on the 31st of January, 1924, that his despatch was sent by the mail of the 17th of January, but that as the revised draft of the Bill must be sent home for examination before introduction, there was not possibility of introduction before the new Council met. The S of S. had not yet had the final observations of the Govern-

had not yet had the final observations of the Government of India. The telegram also requested the Governor to send a copy of the S. of Standard patch

of the 17th of Janedry to the Governor of Uganda when received.

(16981/24)

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On the 18th March, 1924, the Governor sent

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(62692/23)

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S. T. S. Carlot

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- (a) If no Goans left Kenya, the net influx of Indians in 1923 was 992;
- net influx of Indians was 1677,
 The truth probably lying between the two. It
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(16.781/24)

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(19274,24)

In a despatch dated the 27th of March, 194. the Governor sent home a further draft Immigration bill amended to meet the views expressed by the S. of S. In the meantime, derrespondence had been proceeding with regard to the statistics of immigration and emigration, and a sespat in forwarding further figures was received on the 5th of May, 1924. It appeared as a result of the correspondence that attention Lai to be confined to the figures for Indians ex anima Goans and other Asiatics) arriving at a eaving the Port of Mombasa, where Kenya, Spanda, and the Tanganyika Territory were ultimately concerned. - As regards the Tanganyika Territory, the use of Mombasa was probably small.

(21482174)

On this basis, the figures were as follows:-

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As regards April - December, 1921, the figures were presumably on the same basis, and gave

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For the whole Zivears, then, the net influx of Indian we far as Mombasa was concerned, was 323, less than to month. There was no means of saying why fifter months earlier the figure of 2888 was given for the net influx in 1922; but, whatever the basis of that calculation, it had been abandoned, and the main foundation for the decision in the White Paper as to immediate

(24608/24)

on the 22nd May, the S. of S. telegraphed personally to the Governor explaining that while he was most anxious to protect the interests of Kenya and the economic position of the natives, it was necessary to give full consideration to the Imperial aspect of the question, the gravity of which was continually increasing. With regard to the question of immigration, the late Government's attitude in holding that immediate control was necessary was based on the figures supplied in 1922, and the position was materially affected by the fact that those figures could not longer be maintained. The S. of S. was considering the possibility of adopting the follows ing attitude:

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- (b) If as many Goans left as entered, the net influx of Indians was 1677,

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That the power of control of immigration is essential, and that the tendency to increased immigration as shown by the latest figures indicated that it may be necessary to use that power soon. An immigration Ordinance should be passed so as to set up machinery to investigate how far immigration is necessary for various purposes, and to secure the power to introduce actual control, and the S. of S. is satisfied as to the necessity. The terms of the draft Ordinance will not necessarily follow those prepared by the Colonial Government, and can be discussed at leisure

(25732/24)

In reply, the Governor in a telegram sated the 28th of May said that subject to further minor alterations, he believed he could gain acceptance of the European community for the proposed announcement. The attitude of the Indian community would be largely influenced by that taken in India, but the majority in the Colons are not deeply interested, and the movement of mon-co-operation was not gaining any ground. a If the Europeans are allowed to fear that indefinite postponement of action is contemplated, it will be much more difficult to recure acceptance even of the admouncement with the emendments suggested. The telegram also reminded the S. of S. that the representations made by the heads of missionary todies strongly it we that active support be given to the propused restriction of immigration for the sake of native races, being convinced that development both industrial and otherwise will be seriously jeopardized unless this safeguard is provided. The Governor added that a strong opinion exists, among the natives themselves and the covery Indian artizen who lands at Mombesa means one less trained African:

The next event was the arrival of the Indian Committee with whom this question of immigration was discussed. Ultimately, after careful consideration of the revised draft Bill received from the Governor, and of the representations made by the Indian Committee, the S. of S. made the following announcement in the House of Commons on the th of August, 24

My position is that if the danger arises of uch an influx of immigrants of whatever class, race, nationality or character as may be likely to be prejudicial to the economic interests of the natives. I hold myself entirely free to take any action which may be necessary. The conflicting statistics which have been laid before me have not enabled me to reach a definite conclusion as to the extent, of the net Indian immigration. According ly, steps will be taken to create a statistical. Department to obtain accurate information with regard to persons of all races arriving in, or departing from Kenya. Heanwhile, the Kenya Immi-

Since then immigration statistics have been received in respect of the years 1924-5-6.

gration Ordinance will not be enacted.

In a despatch dated the 3rd of July, 1926, (X.F.4550/26) dealing with the returns for 1925, the S. of S. stated that in view of the fact that it is still not possible for statistics to be furnished from the reject of the fact. Srun

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(26230/25) (4580/26) (10195/27 A Statistical Bureau has been set up in connection with the Conforence of East African Governors, and in a despatch dated the 13th of May, 1927, the Governors ent home immigration and emigration figures and occupation returns of Europeans, Indians, and Goanese for the years 1923-6. The following comment on the returns was made by the Statistician to the Governors' Conference:

"Steps are being taken to transfer the work of compilation to the Statistical Bureau of the Governors' Conforence, leaveling only the work of collecting the immigration and emigration schedules to the Police Officers. With this end in view the regulations under the Immigration Restriction Ordinance and the Statistics Ordinance are being revised. It is hoped to render the forms common to all the East African Territories, and centralise the work of compilation an as inter-territorial service.

Final arrangements cannot be made until

the authorities in the adjacent territories have been consulted.

In the meantime the statistical methods of the Immigration Office do not permit discrimination between Emigrants through Mombesa from Kenya only and from all East African Territories.

that close consideration was being given to the question of centralizing the statistical work of the colony.

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Kenya alone, he had decided the defer for the present the question of communicating figures to the India Office with a view to obtaining their absorbance by the Government of India as sufficientic. The S. of S. noted that a Bill to amend the Statistics Ordinance had been published, and he hoped it would be possible to make arrangements in time for the figures to be collected on the basis desired for the year 1927.

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