

1925

KENYA

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REC  
RE 18 MAY 25

FROM

DATE

INDIANS OVERSEAS COMMITTEE,  
NAT. LIB. FEDERATION.

24th April 1925.

RE CIRCULATION:—

Mr.

Mr.

Mr.

Asst. U.S. of S.

*W. S. Kelly*

Perm' U.S. of S.

Perm' U.S. of S.

Secretary of State

INDIAN RESERVE IN LOWLANDS.

Fwd's copy of a "Memorandum on the Proposed  
Formation of an Indian Reserve in the Lowlands  
of Kenya."

Previous Paper

10.5786/24

MINUTES

This quarrel is between the Indian<sup>s</sup> Overseas  
Committee and the Government of India, and we are  
only concerned with the allegation that what Lord  
Milner laid down in 1920 has been varied.

He is credited with accepting the "principle  
of equality of opportunity, and with the view that  
the highlands could only be reserved for Europeans  
"on condition that land of equal quality and in  
proportionate quantity were similarly reserved for  
Indians." Later, "proportionate quantity" is  
interpreted as "of adequate extent, considering  
of course the size of the Indian population."

The final form of Lord Milner's despatch of  
21st May 1920 is that flagged in green in C.O/  
22089/20-E.A. - see paragraph 6. There is no  
mention of "equality of opportunity," nor of "land  
of equal quality and in proportionate quantity."  
What Lord Milner said was "reasonable opportunity  
should be afforded for Indian agricultural  
settlement" on "areas of adequate extent and

Subsequent Paper

*Yoffe 22449*

good quality. And that "adequate extent" was not, in his view a matter of the proportions of the Indian and European populations is shown by his "hope that there will be no delay in provisionally selecting at least one area for Indian settlement" - adequacy was <sup>clearly</sup> to depend not on population but on the demand for agricultural land.

The only change made in 1923 was in the provisions that (a) there must be a guarantee of intention to develop the land and (b) after a limited period the reservation should be <sup>re</sup>considered in the light of experience.

As to quality, we are only too anxious that the Indians or the Government of India should examine it for themselves. The objection to that must be (unless we are to suppose the I.C.A. as much devoted to principle as Dickens' Poor Law Board) that they do not wish it to appear now when a demand there is on the part of Indian agricultural classes for land to cultivate in Kenya.

Party *W.C.S.* 22.5.25

*9/1/25*  
*M.C.*

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REC<sup>d</sup>  
RE 18 MAY 25

**NATIONAL LIBERAL FEDERATION.**

**Standing Committee on Indians Overseas.**

Chairman :  
The Rt. Hon. V. S. Srinivasa Sastri, P. C.  
Members :  
Sir Tej Bahadur Sapru, LL. D., K. C. S. I.  
Pandit Banaridas Chaturvedi.  
Mr J. R. Gharpure, B. A., LL. B.  
Pandit Venkatesh Narain Tivary, M. A.  
Secretary : Mr. S. G. Vaze

[ All communications should be addressed to  
Mr. S. G. Vaze, Secretary of the Indians  
Overseas Committee of the National Li-  
beral Federation, Servants of India Society,  
Deccan Gymkhana Post Office, Poona. ]

April 24, 1925.

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*With Compliments*  
*of the Indians Overseas Committee*  
*of the National Liberal Federation.*

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April 24, 1925.

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*With Compliments*  
*of the Indians Overseas Committee*  
*of the National Liberal Federation.*

## A MEMORANDUM on the Proposed Formation of an Indian Reserve in the Lowlands of Kenya.

[ Prepared by the Indians Overseas Committee of the National Liberal Federation. ]

In his inaugural address to the Indian Legislature on January 20, 1925, H. E. the Viceroy referred to the offer made by His Majesty's Government to reserve an area in the lowlands of Kenya for Indian colonization and announced that the Government of India was considering the question of deputing an officer to Kenya with a view to examining and reporting upon the particular tract which the Kenya Government proposed to set apart for the purpose. Mr. J. W. Bhore, Emigration Secretary, added on January 27, 1925, in the Legislative Assembly that the Government of India would consult the Standing Emigration Committee of the Indian Legislature at its next meeting on this subject and would arrive at a decision only after the Secretary's report was received.

It is not necessary to express emphatic disapproval of this move on the part of the Government of India, whose range for the inspection of the area proposed for an Indian reserve in the lowlands will be interpreted by the outside world as evidence of the Government's willingness to waive its former objection to the reservation of land in the lowlands for whites. It must be borne in mind that the proposal to reserve land in the lowlands for Indians is made as a counterpoise to the reservation of land in the highlands for the whites. When in 1920 the then Secretary of State for India, Viscount Milner, expressed himself unable to remove the British Government's objection to the Indian colonies in respect of acquiring agricultural land in the lowlands, he accompanied this decision to set aside the highlands for the exclusive occupation of the whites by an offer to earmark certain areas in the low-lying country in which Indians alone were allowed to settle. Now, obviously it would be tedious and extremely inopportune on the part of the Government of India to send a representative to inspect the suitability of a region in the Kenya lowlands as a special reservation for Indian colonization unless it considered itself free to accept the proffered area, provided that the area is found otherwise desirable. The fact, therefore, that the Government of India sends an officer to Kenya in response to the invitation of His Majesty's Government will necessarily be understood to mean that if the area is found to be well adapted to Indian settlement, the Indian Government will not be averse to accepting it, at least temporarily by way of compromise. But to agree even under protest to have an area set apart for Indian colonization is for the Government clearly to give up its objection to the principle of reserving land for any of the immigrant communities of Kenya and therefore its objection to the white highlands policy. After accepting a special allotment for Indians on which no non-Indian is allowed to encroach, it cannot consistently take exception to another allotment for the whites, on which no non-white is allowed to encroach. The Government of India of course may still object to the unequal size and nature of the areas monopolised by Europeans and proposed to be earmarked for Indians, but to the policy of segregating different races in different areas it cannot any longer raise an objection, for it will have already impliedly consented to it when it entertained the proposal for creating a reserve for Indians and thus showed its willingness to accept it in certain contingencies. It, therefore, the Government of India is no longer uncompromisingly opposed to a separation of races but if instead its opposition is now limited only to the inequitable manner in which the scheme is sought to be worked out, as must be inferred from the action it is contemplating,

from holding land in the lowlands because Indians were debarred from holding it in the highlands, but that all races should have free access to all land, with the only proviso that the native rights were not interfered with and native requirements were fully satisfied. The proposed exclusion of each race from a certain area has therefore never commended itself to Indians, but if the country was to be partitioned off into two racial divisions, there was, according to Lord Milner's scheme, to be at least no unfairness or inequality in this partition. The principle of equality of opportunity on which alone Lord Milner declared that the practice of allotting separate areas to different races could be defended seems now to be lost sight of. He intended that in the lowlands Indians should be allowed to acquire land of an equally good quality and of adequate extent, considering of course the size of the Indian population. And he added: "I think it very desirable that there should be no doubts of our sincerity in this matter; and I hope therefore that there will be no delay in provisionally selecting at least one area for Indian settlement." An area of land in the lowlands was thus to be immediately set aside for Indians only as an earnest of the Government's determination to carry out the policy of demarcating the country between Indian and European on a fair basis. The first area of which the selection was to be provisional, being subject to approval by a representative of the Government of India, and which was to be followed by other areas being similarly set apart, became in the Kenya White Paper of July 1923 only a "temporary" reservation, with a view to testing the strength of demand "for agricultural land on the part of Indians who will give suitable guarantees of their intention to develop the land themselves. After the expiration of a limited period, the reservation of this area in the lowlands will be reconsidered in the light of the experience so gained." The consideration of adequate land being reserved for Indians has so far receded into the background at present that in his speech of January 20, 1925, the Viceroy did not even mention the point that the land that had been offered to Indian settlers would be examined from the aspect of its adequacy as well as suitability. He only mentioned suitability. But even assuming that this was an inadvertent omission on his part, the idea of a "temporary" reservation being made for Indians that is now put forward was not contemplated by Viscount Milner. Guarantees have now been asked of the would-be Indian settlers that they would develop the land to a requisite extent within a certain period. This is of course not only fair but quite essential on grounds of public policy, but since equality as between Indians and Europeans is the governing condition of the policy of race segregation as formulated by Lord Milner, a query may be made as to what guarantees were required and obtained from Europeans when land in the highlands was reserved for them, and as to how the strength of their demand for agricultural land was tested. The public in India have not yet heard of any small area in the highlands being provisionally set apart at first for the whites with stringent conditions of development and substantial guarantees exacted from applicants for land, before all the land in the highlands which was not in native occupation [30,000 sq. miles] was finally and absolutely reserved for them. It is notorious that in the early period of European settlement huge blocks of land were alienated to land concessionaires on the easiest imaginable terms, with no obligation to turn any part of the land to account, and despite all the conditions of development since enforced the number of individual occupiers even now does not exceed 1715, and the percentage of cultivated to occupied area is below 7. It may perhaps be urged in defence of this ridiculously low percentage of cultivated land that a part of the land alienated is used for pastoral purposes; but, without elaborating the refutation any further, it may be simply said in answer here that most of the land thus used for pastoral purposes is well fitted for agriculture too and that there could be no moral justification for excluding the natives from this area, even on the theory on which they have been robbed of their agricultural land, because, whatever may be their deficiencies as agriculturists, native tribes like the Masai are

in this region of temperate climate, a larger proportion of the land comes to be developed by them by means of black labour, whereas if some part of the land were granted to others who do not depend upon native labour the process of turning the natives who were formerly independent cultivators into wage-earners on Europeans' farms would be arrested. It is the opinion of those who can pronounce authoritatively on the subject that the land allotted to the natives is already insufficient in the case of some tribes and certainly does not admit of enough room for the growth of population in the case of most of them. If His Majesty's Government has so scandalously violated its solemn pledge to regard the well-being of the natives as its first concern, Indians on their part must at any rate refrain from agreeing to any proposals which, if carried out, would add to the victimisation of the native races. They, therefore, cannot be consenting parties to the project of closing in upon the natives in the lowlands when the native races have already been turned out of a very large proportion of the best land in the whole country. The undoing of the white highlands policy is only the first step in the process of the development of the natives as producers on their own account. It must be followed by a legal prohibition, as suggested by the late Bishop Weston,\* of the settlement of an immigrant, of whatever race, in a district where the labour required for the exploitation of the area is not locally available.

It is claimed on behalf of His Majesty's Government that the governing principles of its Kenya policy are in substance identical with the terms of the Mandate Article in the Covenant of the League of Nations, but it is easy to show that this claim is ill-founded. Regarded from the aspect of the natives, the white highlands policy is contrary to Article 22 of the Covenant inasmuch as it excludes the natives from this area, but viewed from the aspect of immigrant races also, this policy must be held to be in conflict with the underlying principle of the mandate theory. For one of the principal obligations imposed upon a mandatory country is to the effect that in its dealings its own nationals shall have no privileges which are not open to the nationals of other countries, and if this test of equality of opportunity for all nations is applied to the system under which the land most sought after in Kenya is reserved to one race, it will be found that the terms of the mandate under which countries won from an enemy nation are administered are violated in vital particulars. Article 7, c. g., of the mandate for Tanganyika runs thus: "The mandatory shall secure to all nationals of the Members of the League of Nations the same rights as are enjoyed in the territory by his own nationals in respect to entry into and residence in the territory, protection afforded to their own person and property, the acquisition of property, movable or immovable, and the exercise of their profession or trade, subject only to the requirements of public order and on condition of compliance with the local law." The Convention revising the General Act of Berlin, 1885, and the General Act and Declaration of Brussels, 1890, has this: "Each State reserves the right to dispose freely of its property and to grant concessions for the development of the natural resources of the territory, but no regulations on these matters shall admit of any differential treatment between the nationals of the signatory Powers and of States, Members of the League of Nations, which may adhere to the present Convention." A differential treatment in the matter of grants of land such as is in force in Kenya is not permitted in Tanganyika even in districts supposed to be suited for white colonization, and the injustice of this system is not lessened by the fact that in Kenya differentiation is observed not so much between nationals of different States as between subjects of the same State but belonging to different races. The basis of unselfishness, on which alone modern conscience can defend the rule of one race over another, is thus wholly lacking in the administration of Kenya, which is being conducted as the reservation of the highlands for the white peoples proves, openly with the object of profiting the ruling race.

\* In an article entitled "The East African Problems" in the *Empire Review* of October 1924.



The system of naked favouritism that is in force in Kenya is now sought to be disguised as one of fair play by the offer of forming an Indian reserve which, without surrendering anything of value and without substantially mitigating the injustice, will, if accepted, only enable His Majesty's Government to pose as holding the scales even between immigrant races. Indians can only treat such an offer as an unworthy bribe and reject it with scorn.

8. What Indians desire is not that they should be given some exclusive privileges as the Europeans are given, but simply that no discrimination should be made in their disfavour. Their claim for equality with other races cannot therefore be met by according preferential treatment to them as against Europeans and Africans in the same way in which preferential treatment is given to Europeans as against Indians and Africans. Two wrongs do not make a right and a preference in two contrary directions does not establish equality. The Indian demand can be satisfied only by cancelling the reservation of the highlands for the whites and leaving the whites, Indians and above all the Africans free to take up land in this area as in all other non-native areas. It may be that there is little chance of this being secured, as Sir B. N. Sarma warns us, but Indians would still prefer to go without any reservation in the lowlands and to lay the atrocious injustice of the white highlands policy on the conscience of the British people. Indeed there is no semblance of a justification for forming an Indian reserve. The justification of native reserves is of course complete, in view of the intrusion of other races into Africa. Indians have no complaint against the policy except that sufficient land is not included in the reserves and that it is not invariably secured to them against the encroachment of other races. A specious plea could also be advanced in favour of a reservation for Europeans, if the view currently held by the white settlers were accepted that the aim of His Majesty's Government in Kenya should be the promotion of European civilization, which is assumed to be identical with Christian civilization. If this were the aim, it would be legitimate to preserve the integrity of the life and civilization of Europeans against the disturbing influence of an unwholesome contact with other races. But Indians do not claim a superiority to their own civilization, and at any rate they have no ambition of imposing it, upon other races by such artificial means. The reservation of a region for them as such is entirely indefensible. If only they are permitted to compete, they should be able to do so successfully with Europeans in acquiring land, and if they cannot do so in their own open competition, they do not deserve any special privileges. This position in India is decidedly against the acceptance of any such privileges. What Indians desire is that Indians should not be discriminated against. This is not the first occasion on which the question of making a reserve for Indians is being publicly canvassed. When it arose in connection with a certain proposal in respect of Tanganyika, the Government of India, conformably to Indian public opinion, which expressed itself very forcibly on the occasion, took up the same attitude as Indians wish it to take up now. Its position then was: "We have opposed, and will continue to oppose, unfair discrimination against our nationals overseas. We desire no discrimination in their favour. We ask for no more than equal rights. We can be satisfied with nothing less" (p. 6, Cmd. 1312). The very fact that the Government of India is contemplating the sending of an officer to Kenya for the purpose of inspecting the area proposed for an Indian reserve exposes the Government to a presumption that it has changed its policy. But though the Government of India may change, the people of India remain constant in their opposition to such projects of reservation. They can but urge the Government to persevere in its former policy, which is the only sound policy, and if it should fail in this, its failure at this crucial juncture would be all the more deplorable after a sturdy advocacy of the cause of Indians overseas which is to its credit.

April 27th, 1926.