

1924

KENYA

14

C.O.
46145
29 SEP 24

Date

Gov.
Boydston

1191

14th September 1924

FOR CIRCULATION

Mr.
Mr.
Mr.

Disposal of Township Plots
Segregation

Asst. U.S. of S.

Summarises position. Does not anticipate any difficulty in carrying into effect principles laid down by I of I

+ Mr. Stanley

Perm. U.S. of S.

Parl. U.S. of S.

Secretary of State.

Previous Paper

MINUTES

Mr. Stanley

In our dispatch on 2/325, which this answers we suggested to the Gov. that ~~some~~ ^{areas} coming under Head (d) and mainly some areas under Head (c) might have to be taken out of the operation of the White Paper decision abolishing segregation & asked him, in the first instance, whether he agreed. He has not answered this question, but proceeding apparently on the assumption that the above view is a chore fin g he summarises the position

Gov 32054
Mga

Copy 32054
11 DEC 1924

17 Dec, 1924

Copy to S.O. 26 NOV 1928 on 804 776126

Subsequent Paper

Gov 53576

Mga

C.O. 523 / 313
PUBLIC AFF. ORD. OFF. & L. DIVISION

Sir H. Lambert

In Amory

I have consulted Mr. Bushe on the Secretary of State's suggestion. Either the period will be too short to save us from any claims which may be made or it will be so long as to reduce very materially the value of the intention to give effect to the White Paper decision when we can. Further, if we recognize the possibility of undoing what has been done ~~2~~ years hence, I do not see any good answer to the demand that we should undo it now. Our proposed attitude is not that we can't afford to undo it because of the claims we should have to meet but that we should be liable to injunction if we tried to undo it.

W.C.B.
17.11.24.

W2 18/11/24

*I shall like to discuss this with Mr. Bentley
18/11*

*Mr. Amory today gave me
oral instructions for action
as in Sir H. Lambert's minute
of 7 Nov.*

*Prepare drafts for comment. These
should be sent to J.O.
explaining the position
fully*

*Good 27.11.24
alone.*

Note.

The Kenya White Paper of 1923 laid down that the policy of residential segregation as between Europeans and Asiatics in the townships should be abandoned.

In Uganda, as a result of this, a notice was issued by the Land Officer that, in the case of leases where a restrictive covenant as to residence or occupation occurred, the Governor did not propose to insist upon the observance of the covenant and that no future leases should contain such covenants.

A European lessee in Kampala thereupon raised the question of this decision forming a breach of contract with him, and the Attorney General of Uganda advised the Governor that the point made was good in law and that the holder of a lease in the area formerly reserved for Europeans would have a good case for an action against the Government if any plot in that area were leased to an Asiatic. The Governor referred the matter to the Secretary of State for decision.

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relating to transfer or occupation of plots or buildings by persons of different race from those to whom the premises have been leased could not fail to prejudice the interests of parties who purchased in the knowledge of these restrictions and that the Government might expect heavy claims for damages.

of these representations from Kenya and the general public. The general view is that in the case of land held or leased by the Crown in plots where Europeans were allowed to bid against transfer of the restrictive covenant, the Government should not proceed with the proceedings.

It is proposed that land sold by the Government at auction should be allowed to bid and subject to the same restrictions on transfer, the Crown could not, without equally rendering itself liable to legal proceedings, sanction transfer to a non-European if in any particular area a practice exists amounting to custom, that no assent to transfer is allowed to other than Europeans. In all other cases no difficulty is thought to exist as to waiving the restrictive covenant as to residence or occupation.

It is proposed to adopt the view of our legal advisers and to apply it as follows: Each part of township areas, both in Kenya and Uganda, will have

have to be considered on its merits. Where no difficulty exists as to waiving the restrictive covenant, segregation must be abandoned under the White Paper decision. Where, on the other hand, we should have a bad case, if the moral obligation to maintain segregation were repudiated, it is not to be repudiated and segregation must continue. The Governor should examine the areas and consider whether, in the areas falling under the latter class there are not parts which could be lopped off and treated as non-segregation areas without detriment to the position of persons who have acquired sites in other parts of the same areas.

KENYA.

No. 1191.



C.O.
6145

29 SEP 24

20
GOVERNMENT HOUSE,

NAIROBI,

KENYA.

4th September, 1924.

Sir,

Gov/32054/24/M.A.
Gov/2133/24/K
In reply to your telegram of the 9th August, I have the honour to report that it is not anticipated any difficulty will be experienced in carrying into effect the principles laid down in your despatch No.507 of 11th May. A few outstanding applications have already been disposed of and any cases presenting difficulties in the future will be referred to my legal advisers and, if necessary, to you.

2. Under the terms of the despatch under reference, the position may be summarized as under:-

(i) In the case of certain areas in the townships of Nyeri, Eldoret, Kisumu, Londiani, Kisii, Nakuru, Naivasha and Mombasa, it would appear that segregation will have to be perpetuated in respect of plots definitely stated in their leases not to be available for Asiatic residence.

(ii) In the case of the townships of Machakos, Voi, Asembo, Homa Bay, Kapsabet, Kakamega, Kapiet, Kendu, Kaptumo, Kibos, Kibigori, Lumbwa, Marama, Muhoroni, Malakisi, Mirogi, Oyugi, Rungue, Yala, Kericho and Eldama Ravine, the way is entirely clear for non-segregation.

(iii) In the case of Nairobi, no restrictions exist in respect of the ownership of plots in the bazaar or of the

THE RIGHT HONOURABLE

J. H. THOMAS, F.R.S., M.P.

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET, LONDON, S. W.

majority of plots in the residential and business cases may arise which would be subject to the provisions expressed in paragraph 3 (c) of our despatch under reference. It is expressed in paragraph 3 (c) of our despatch under reference that business plots should not come under category (d).

(iv) In the case of Mombasa, vicinity of the Manor Hotel, Peppy Road will also not be transferable in Nakuru in respect of various plots, XVI and XVII.

(v) In the case of Kisumu the only plots to be restricted to European ownership are those already alienated on Victoria Road, but a few plots sold in 1919 are restricted to ownership by Asiatics.

3. On the whole it would appear that cases presenting any difficulty would be only those which are referred to in paragraph 3 (c) of the despatch under reference, and it is a fact that so far no applications of this description have arisen. Out of some dozen applications, two have been dealt with as clearly to be refused as coming under category (d) while the others have had as clearly to be allowed as belonging to the simplest class described in (b) of the same paragraph. These applications, however, are in respect of a long period during which no decision could be given, and there is little evidence at present of any considerable demand for the transfer of township plots between different races.

4. You will observe that while there are no cases in which Crown leases specifically forbid Asiatic or European ownership, there are a number of plots in effect non-transferable between races on account of a restriction as to residence: this differentiation -

differentiation was apparently not expressed with sufficient
clearness in the Commissioner of Lands' memorandum attached

● GM 215251^{24K} to my despatch No. 374 of 1st April, 1924.

I have the honour to be,

Sir,

Your most obedient, humble servant,

R. G. G. G.

GOVERNOR.

n receipt
Uganda the matter as fully
l opinion of our legal ad
of the sale of areas, sol
ots at auction were only
ld and the leases cont
er to, of residence by
rown could not waive
ndering itself liable to legal
in a case of areas sold or lea
plots where only European we

Unrec 2835/44 up Ind

11th Dec 1924

Sir

with ref: to my tel. of

6th December 1924

DRAFT.

56589

Osamba No:

652

to inf: you that on the

same day I telegraphed to

the Gov^r of Kaura as follows:-

[Here insert text of

tel. to Kaura on Su/56589]

I now enclose to

copy to his correspondence

a copy of my predecessor's

Dep^t No 507 of May 22nd
to the Gov^r of Kaura
set which is referred to in

his telegram. You will, I

trust, have no further

inquiries from me.

MINUTE.

Mr

Mr

Mr

Mr

Sir

Sir

Mr

Mr

Mr

for copies

May 22nd

507

21325

(21325)

2 drafts

Ans 2837/25 my Ind

JA

11 Dec 1924

Sir

with ref to my tel. of

6th December 1924 etc

to inf you that on the

same day I telephoned to

the Gov of Kaura as follows:-

[Here insert text of

tel. to Kaura as Sw/56569]

I now enclose to
complete the correspondence

a copy of my predecessor's

Dep No 507 of May 22nd
to the Gov of Kaura
set which is referred to in

his telegram. You will

think have no objection

in forwarding this to

DRAFT.

Sw 56569/

Uganda No: 652

for Sir J. ...

MINUTE.

- Mr. ...
- Mr. ...
- Mr. ...
- Mr. ...
- Sir G. ...
- Sir H. ...
- Mr. Ormsby-Gore.
- Mr. ...

for ...

21/225
2/225

(21325)

2 drafts

DRAFT.

MINUTE.

Mr.

Mr.

Mr.

Mr. Davis.

Sir G. Grindle.

Sir H. Read.

Sir J. Masterton Smith.

Mr. Ormsby-Gore.

Duke of Devonshire.

Should be given to the
 question whether there are
 not parts of such areas
 which could be detached
 and treated as war
 segregation areas without
 rendering the Government
 liable to injunction.

made

(Signed) L. S. AMERY.

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Government might expect
heavy claims for damages.

DRAFT.

MINUTE.

Mr.

Mr.

Mr.

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Sir G. Grindle.

Sir H. Read.

Sir J. Masterton Smith.

Mr. Ormsby-Core.

Duke of Devonshire.

The foreman of Uganda
reported that a similar
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that Protectorate. As upon
receipt of his decision contained
in the White Paper, the
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or occupation occurred the

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The Governor thereupon
referred the matter to
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Duke of Devonshire.

" On receipt of these
representations from the

Governor of Kenya &

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was further considered by

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the S. & S. & on May

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the Governor of Kenya

the despatch of which a

copy of May 22nd) In the
letter, see careful survey
is given to the situation
whether there are not parts
of such areas which could
be...

... liable

John



(Signed) C. STRACHEY

MINUTE.
12/2/24
12/2/24
Sir G. Grindle.
Road.