

EAST AFR. PROT

533

22230

22230

REC'D  
REL. A MAY 20

INDIANS

ACQUISITION OF LAND

Submits proposals for demarcation of an area in which they could acquire land without race restriction.

DATE, 1920

1920  
MAY

of previous Paper

22167

Gen. R. G. S. L. J. Fiddler

In an unofficial letter G. E. Ashley says,  
with ref. to this letter.

"I consider that all the rest of the Prot.  
should be reserved for the use of Indians  
& natives, & the map which I was to  
transmit would only indicate the  
boundary thought that the Tana River Valley  
would also be suitable for human  
settlement, but I am unable to recommend  
that this valley be demarcated for human  
settlement either at present or in the  
near future, on the grounds that clearance  
of land is that area cannot be made  
without a previous extensive investigation  
& survey of water rights, water which  
could make extensive settlement  
impossible for many years."

Copy to Prof. J. May 20

2535

The area indicated in the official letter enclosed

27 May 1920



531

My Lord,

With reference to interview on April 22nd on the question of Indians in the East Africa Protectorate, I have the honour to inform Your Lordship that, in the event of it being considered necessary to demarcate an area in the lowlands of East Africa in which Indians could acquire landed interests without race restrictions, I consider such an area could be found and, after consultation with Mr A. E. Tomson, the Director of Surveys, I suggest that the area so demarcated should be that contained between the Indian Ocean on the East, the Tanganyika Territory Boundary on the South West and the Tavo, Athi and Sabaki Rivers on the North.

2. In this area there is, I believe, much land that is suitable for cultivation, particularly along the Athi River, at present uncultivated but which could be surveyed and sold to Indians as required.

3. I am opposed to any extension of the Indian area near Mchuroni.

Yours truly,  
The Lord

Your Lordships obedient, humble servant

Edward Northey

Honourable,  
Mr. Justice, P.C., G.C.B., G.C.H.Q., &c.

Secretary of State for India, Governor of the East Africa Protectorate

Colonial Office

Downing Street.

S.W.1

53  
W/ 222700 Cal

Ind

535

DRAFT.

may for hi Estuary  
Kang Co

MINUTE.

27 may 1900

Mr. Acl 25.5.00  
Mr. Holman by 25/5

- Mr. Grindle.
- Sir H. Lambert.
- Sir H. Read.
- Sir G. Fiddes.
- Col. Amery.
- Lord Milner.

hi  
 from the work done  
 receipt of your letter  
 of the 3<sup>rd</sup> of May  
 relative to the  
 demarcation of an  
 area in the Est.  
 for hydrographic  
 purposes  
 settlement

copy to Capt 31 May 20

Wd after Dickinson  
 with W. H. Stanley

copy of hi  
 29. 5/3

Conf 53 15/3

1/2

(2) H. J. was glad if you  
could submit your final  
report after you return  
to office, when you will  
have had an opportunity  
~~to discuss~~ ~~with~~ consulting  
your staff in the matter.

(3) A copy of this correspondence is being  
forwarded to the staff  
of the East for record.

2

(Signed) H. J. HEAD.

ALGERIA

21

May, 1920.

36

Sir,

I have the honour to inform you that I have now had an opportunity of discussing personally with Major General Sir Edward Harbord and with Sir Robert Coryndon the various questions affecting the Indian Community in British East Africa, which have formed the subject of correspondence with yourself and the India Office and the Indians Overseas Association; and before arriving at a decision on these questions, I had the advantage of receiving a deputation which was introduced to me on the 19th of April by Lord Selington and which included Indian representatives sent from East Africa.

2. I have given very careful consideration to these important questions, as I was desirous of securing, if practicable, an adjustment of the existing situation, which clearly tends to create discontent in a section of the community in British East Africa. I do not propose, however, to review the situation at length, as you are fully aware of the position; and it will suffice if I comment briefly on the main points which have been raised and on which a decision is required.

OFFICE ADMINISTERING

THE GOVERNMENT OF

THE EAST AFRICA PROTECTORATE.

required.

537

3. The Indian community would wish to have equal rights with the European settlers in regard to representation in the Legislative Council of the Protectorate, that is to say, that their representatives on the Council should be elected instead of nominated and that the method of election should be the same as that recently introduced for European representatives. Lord Islington, in introducing the deputation to which I have referred, stated that he realised that a solution of the present difficulties could not be found in granting the franchise to Indians in the Protectorate generally on the same basis as to the Europeans. I fully share this opinion, but I feel compelled at present to go further and to express my view that, having regard to the very small number of the Indian community who can be regarded as qualified to exercise the franchise, the time has not yet come for basing the representation of Indians in the Protectorate on the elective principle. In any case it seems to me desirable that the constitutional changes recently introduced in the Protectorate should be tested in practice if only for a few years before they are revised. A time may no doubt come, when the Indian members of the Council can with advantage be elected; but I am satisfied that for the present Indian interests will be better served by the system of nomination, and I believe that the Governor could not have nominated two gentlemen better fitted to safeguard those interests than Mr. Abdul Rasul Allidina Visram and Mr. Phake,

whose

whose ability and experience should prove of real assistance to the Council in its deliberations. 53

4. The question of elective representation arises also in connection with the Municipal Council, Nairobi. Mr. Jeevanjee spoke very strongly on this subject when I received the deputation, maintaining that the Indians were not represented on the Council. I understood however that the absence of Indian representation on this body is due to their unwillingness to be represented by nominated members. In this case also I am inclined to think that representation by nominated members will, under present conditions, be to the best advantage of the Indians. But the case for nomination as against election does not seem to me so strong with regard to Municipal Councils as with regard to the Legislature. And if, in your opinion, it was desirable to try the experiment of election, I should be prepared to assent.

5. As regards Indian immigration into East Africa, I could not countenance any restrictions which would place natives of India at a disadvantage as compared with other immigrants; and subject to the Protectorate Immigration Ordinances which are of general application, there must be no bar to the immigration of Indians.

6. The removal of the restriction on the acquisition by Indians of agricultural land in the highlands of the East Africa Protectorate has been strongly urged. The Earl of Elgin, when Secretary of State for the Colonies, informed the Governor that it was not consonant

whose ability and experience should prove of real assistance to the Council in its deliberations. 58

4. The question of elective representation arises also in connection with the Municipal Council, Nairobi. Mr. Jeevanjee spoke very strongly on this subject when I received the deputation, maintaining that the Indians were not represented on the Council. I understand however that the absence of Indian representation on this body is due to their unwillingness to be represented by nominated members. In this case also I am inclined to think that representation by nominated members will, under present conditions, be to the best advantage of the Indians. But the case for nomination as against election does not seem to me so strong with regard to Municipal Councils as with regard to the Legislature. And if, in your opinion, it was desirable to try the experiment of election, I should be prepared to assent.

5. As regards Indian immigration into East Africa, I could not countenance any restrictions which would place natives of India at a disadvantage as compared with other immigrants; and subject to the Protectorate Immigration Ordinances which are of general application, there must be no bar to the immigration of Indians.

6. The removal of the restriction on the acquisition by Indians of agricultural land in the highlands of the East Africa Protectorate has been strongly urged. The Earl of Elgin, when Secretary of State for the Colonies, informed the Governor that it was not consonant



with the views of His Majesty's Government to impose legal restrictions on any particular section of the community in regard to the acquisition of land, <sup>539</sup> but that as a matter of administrative convenience grants of land in the upland area of the Protectorate should not be made to Indians. The ground for this decision was that the area of agricultural land in the Protectorate suitable for European settlement is limited. This decision, which applies only to agricultural land, has been re-affirmed by Secretaries of State subsequently; and I do not feel that I should be justified in reversing it. It is clear that if the limited area, on which alone European Settlers can live, were thrown open to the competition of Asiatics who are physically fitted to settle in other areas from which Europeans are by nature excluded, there would be, taking the Protectorate as a whole, a virtual discrimination in favour of Asiatic as against European settlement. I cannot regard the Indian claim on this point as just or reasonable; on the other hand, I am anxious that reasonable opportunity should be afforded for Indian agricultural settlement, and I am advised that there are areas of adequate extent and good quality, which could be set apart for that purpose without infringement of native rights. Sir Edward Northey has made certain suggestions on this subject, and he will enquire further into it on his return to East Africa. 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, which the Commission, which, as I understand, has been appointed by the Indian Government for this purpose, may be invited shortly to inspect. 540

7. A further matter to which much attention has been directed is the policy which for convenience may be termed "race-segregation". I regret that this policy should have given offence to the Indian community, and I feel sure that they are under a misapprehension in the matter. There is no question here of discrimination against the Indians. In this case, as in that of land settlement, I have no wish to sacrifice Indian to European interests. But I am convinced that, as long as the Indians are fairly dealt with in the selection of the sites, the principle that in the laying out of townships in tropical Africa separate areas should be allotted to different races is not only from the sanitary point of view but also on grounds of social convenience the right principle. It is in my opinion best for all races, European, Indian and native. I desire therefore that this principle should be adhered to in residential areas, and whenever practicable, in commercial areas also.

8. If this principle is to be effectively carried out, it seems to me necessarily to follow that as a general rule no transfer of land either by way of ownership or mortgage between Europeans and Asiatics in townships should be allowed. There may no doubt be exceptional cases, in which it would be unjust or inadvisable to forbid such a transfer, but these can be met by leaving discretion to the Governor-in-Council, to give sanction, when some special reason can be shown. Similarly, when township plots

provisionally selecting at least one area for Indian settlement, which the Commission, which, as I understand, has been appointed by the Indian Government for this purpose, may be invited shortly to inspect. 540

7. A further matter to which much attention has been directed is the policy which for convenience may be termed "race-segregation". I regret that this policy would have given offence to the Indian community, and I feel sure that they are under a misapprehension in the matter. There is no question here of discrimination against the Indians. In this case, as in that of land settlement, I have no wish to sacrifice Indian to European interests. But I am convinced that, as long as the Indians are fairly dealt with in the selection of the sites, the principle that in the laying out of townships in tropical Africa separate areas should be allotted to different races is not only from the sanitary point of view but also on grounds of social convenience the right principle. It is in my opinion best for all races, European, Indian and native. I desire therefore that this principle should be adhered to in residential areas, and whenever practicable, in commercial areas also.

8. If this principle is to be effectively carried out, it seems to me necessarily to follow that as a general rule no transfer of land either by way of ownership or mortgage between Europeans and Asiatics in townships should be allowed. There may no doubt be exceptional cases, in which it would be unjust or inadvisable to forbid such transfer, but these can be met by leaving discretion to the Governor-in-Council, to give sanction, when some special reason can be shown. Similarly, when township plots

plots are put up to auction, Europeans should not be allowed to bid for plots in the Asiatic quarter or Asiatics to bid for plots in the European quarter. 541

9. As regards education, to which reference is made in the memorial of the 22nd of March, 1910, from British Indian subjects in East Africa to the Viceroy of India, I should be glad to see improvements effected in educational facilities for all classes in the Protectorate. The local Government has increased materially during the last few years the provision made for education; but, owing to the lack of funds progress has not been as rapid as I could have wished. I trust however that you will give close attention to the question of increasing educational facilities in the Protectorate, and that in this respect full consideration will be given to the claims of the Indian community.

10. The question of medical and legal practice in the Protectorate is raised in the same memorial. The position in regard to medical practice is determined by the Medical Practitioners and Dentists Ordinance 1910, which was sanctioned after consultation with the General Council of Medical Education and Registration and the British Medical Association. I understand that the greatest care is taken by the General Council in considering any medical diplomas brought before them; and I see no reason to doubt that the holder of any diploma which is a guarantee of fitness to practice would be declared by the Council to be eligible for registration in the United Kingdom. I am not therefore disposed to

suggest

suggest to your Government any amendment of the existing Ordinance, which already provides for the practice of systems of Therapeutics according to native Indian or other Asiatic method by persons recognized by the community to which they belong, to be duly trained in such practice.

512

As regards legal practice, under the rules of Court locally in force persons are admitted to practice who have been admitted to practice in some other part of the Empire, a provision not less liberal than that which obtains in most Colonies and Protectorates. I should however see no objection to arrangements being made for the High Court in East Africa to admit to practice an applicant who has obtained the necessary qualifications for admission in India or any other part of the Empire but has not yet been actually admitted to practise in that country, if it is only a matter of formality or the payment of a fee which is delaying such admission. Apart from this, I do not see any reason to suggest an alteration in the existing rules.

11. A further complaint made by the memorialist is that Indians have not the privilege of trial by jury. It had already been suggested by you that trial by jury for Indians might be introduced experimentally after the war, and I have to request that you will take the necessary action to give effect to this as

soon

suggest to your Government any amendment of the existing Ordinance, which already provides for the practice of systems of therapeutics according to native, Indian or other Asiatic method by persons recognized by the community to which they belong, to be duly trained in such practice.

542

As regards legal practice, under the rules of Court locally in force persons are admitted to practice who have been admitted to practice in some other part of the Empire, a provision not less liberal than that which obtains in most Colonies and Protectorates. I should however see no objection to arrangements being made for the High Court in East Africa to admit to practice an applicant who has obtained the necessary qualifications for admission in India or any other part of the Empire but has not yet been actually admitted to practise in that country, if it is only a matter of formality or the payment of a fee which is delaying such admission. Apart from this, I do not see any reason to suggest an alteration in the existing rules.

11. A further complaint made by the memorialist is that Indians have not the privilege of trial by jury. It had already been suggested by you that trial by jury for Indians might be introduced experimentally after the war, and I have to request that you will take the necessary action to give effect to this as

soon

soon as possible.

12. I do not wish to deal in this despatch with the recent currency changes in East Africa, but as the subject was raised by the deputation on the 19th of April, I may remind you that this is a matter of extreme difficulty, to which I have given most careful consideration; and that I do not anticipate now that any alteration in the new arrangements will be made. I explained to the deputation that the action taken by the Government is in the nature of a compromise, which I believe meets, as far as circumstances allow, the conflicting interests of all sections of the community in East Africa.

543

13. I have dealt briefly with the specific grievances which have been brought to my notice, and I do not wish to prolong this despatch. But in conclusion, I must refer to the report of the Economic Commission, as certain statements and allegations in the report with regard to Indians in East Africa, have provoked strong protests. I much regret that such expressions should have been used, and I was glad to have the opportunity of informing the deputation which I received that they do not represent in any way the views either of His Majesty's Government, or of myself, and that in examining these various questions of policy affecting the Indian community in East Africa, I dissociate myself altogether from those parts of the report.

14. I have addressed this despatch to you in the

"secret"

"secret" series, as I have requested Sir Edward Northey  
to make public these decisions on his arrival. In the  
negotiations we do not wish them to be announced, but it  
would be convenient, if you will inform me by telegraph  
some days in advance when the announcement is to be  
made. After Sir Edward Northey has made his announce-  
ment, the despatch may be transferred to the "public"  
series.

I have the honour to be

Sir.

544

Your most obedient

humble servant,

(Signed) MILNER