SECRET.
C.P. 99 (23).

CABINET.

INDIANS IN KENYA.

MEMORANDUM BY THE SECRETARY OF STATE FOR THE COLONIES

I.

IT is necessary for me to bring to the notice of my colleagues the following secret and personal telegram which I have received from the Governor of Kenya, giving such information as he is able to supply as to the possible consequences of an attempt to force on the European community a settlement involving a greater degree of concession to Indian aspirations than they are able to accept:

"Paraphrase Telegram from the Governor of Kenya to the Secretary of State for the Colonies. (Dated 3rd February.)

"Personal and Secret. 3rd February. It is my duty to inform you of all that I am able to gather. Information regarding the intentions of the public in the event of a complete breakdown of the negotiations is carefully withheld from me, but I am certain that complete machinery has long been prepared and stiffened recently to paralyse the functions of the Government.

"I am equally certain that such machinery does not include any deliberate and real violence against Asians.

"First action will probably be the usual one of refusing to pay taxes, and, next, to establish the most stringent commercial and personal boycott against Indians. This may be followed possibly by the seizure of Treasury, armory, railway, customs and telegraph offices with the same general object of paralyzing the Government. Possibly a further step may be the wholesale expulsion from Nairobi to Mombasa Island of the Indian population. Possible also that, if things get so far, steps will be taken to prevent me from issuing orders or to prevent those orders from being obeyed. I doubt if it is possible to call out against Europeans in their own colony the British native troops, but it is most probable that, if I were compelled to do so, they would refuse to come out. The native police will, of course, be quite ineffective. Reading the Riot Act and declaration of martial law will be meaningless under the circumstances described. I assume that to consider white troops from India or elsewhere is quite impossible.

"If functions of Government are paraly sed and public attitude remains uncompromising, it is proper to ask what can be the alternative between the exercise against the colonists of superior force and guaranteeing them against the loss of what they believe most truly to be their rights.

"If the negotiations fall to the ground completely, I will issue, of course, gravest warning to the colonists, but the whole public feeling is so resolute that the practical certainty of loss of pensions, of franchise and of title to lands may have no effect.

"I believe that very few settlers would come forward to support authority of the Government, though some few might stand aloof. If my opinion is correct, there is no possibility of triumph of Government if force becomes ultimate issue, however respectfully applied.

"Effect of even temporary subversion of Government will have, of course, the gravest possible effect on native population of Kenya, Tanganyika and Uganda.

[9517]
The Government's prestige would inevitably suffer incommensurable and lasting damage. Very probably outrages by natives on Indians in country districts will occur, and it is quite possible that this will take a serious form, particularly by [† Somalis], and certain other tribes. I am not considering the effect in India, as I am not able to judge.

"What may occur is impossible to foresee in circumstances so peculiar, but a boycott, non-payment of taxes and some form of definite and resolute paralysis of the Governments are certain. There is, I believe, very little bluff in the attitude of the public, but only translation into action of the emotions held for many years, as I understand was informed your predecessor by Northey. However favourably I am regarded personally, no individual Governor could in this matter move the whole colony. I realise the gravity of this telegram, but it contains my considered opinion. I will take all measures possible if the occasion arises, but in the meantime the Attorney-General advises me that I should be sure as to my position."

"Bowring has just returned from a visit to the districts round Kenya Mountain, and is quite convinced of the gravity of the situation. He agrees with the terms of this telegram. Nobody except Bowring has seen this telegram, but I believe that practically every civil servant and every missionary would agree with it. I will telegraph as to result of your telegram 2nd [† February] to-morrow or next day.—Coryndon."

The Governor is in close touch with representatives of all sections of the European community with a view to securing their agreement, if possible, to a settlement on the lines which Lord Peel and I have accepted. I do not apprehend that, until the Governor's negotiations have broken down, and until, after that breakdown, a settlement is imposed by order of His Majesty's Government, there is any danger of action by the Europeans of the nature Sir R. Coryndon anticipates. It is true that I have found it necessary on two points to take a definite line before the negotiations are completed, but I do not think that trouble should arise on that account.

(a.) It has been intended for the last eighteen months that the new Constitution, embodying whatever arrangements were decided upon for the representation of Indians, should have effect from the beginning of this year, when a general election of the existing European elected element in the Legislative Council would, in the ordinary course, fall due. I was unwilling to risk the inflammation of Indian feeling which might arise if a new Council were elected, ostensibly for three years, at a time when, as was hoped, an early settlement might reasonably be anticipated, and I have decided, therefore, that the life of the existing Council must continue for a further period of twelve months, unless, on the completion of the settlement, it is possible to dissolve the Council in order to have a general election on the new basis. The Royal Instructions have been amended in this sense, and the Governor is at the moment taking steps to pass the necessary amendment of the local Ordinance regarding elections.

It may be assumed that the European community will not base any positive action, which they have in mind, on the passing of this amendment, as it is clear that they would not command public sympathy here on the particular point.

(b.) I have received strong representations from the Governor that some stringent form of control of Indian immigration is essential to achieving a settlement, and he has pressed me to agree to the introduction of an ordinance for this purpose at once. The information which has recently been received as to the rate of influx of Indians into Kenya has convinced me that some degree of control will be required; but I have not been able to agree to the proposal that it should precede the settlement of the question of what can be done to meet the claims of Indians already resident in the country. I have therefore informed the Governor that he should proceed with his negotiations, on the understanding that the introduction of new immigration conditions, in a form not involving racial discrimination, will be a part of the general settlement.

In this case, also, I have no fear that my decision on the particular point will precipitate direct action by the European community.

But while, in my opinion, we have a breathing space before any positive trouble need be expected, and while it may be hoped that the Europeans will accept the terms of settlement and will give up the idea of direct action, it would be necessary for me to consider an unsatisfactory conclusion to the local negotiations in the light of the
Governor's present warning. The choice would then lie between modifying the terms of the proposed settlement so as to meet as far as possible whatever views the representatives of the Europeans may ultimately put forward, and, on the other hand, taking steps to combat the action which the Governor anticipates would follow an imposed settlement contrary to their views.

On the latter point I am satisfied that any use of the native troops in suppressing organised action on the part of the Europeans is unthinkable. It would be disastrous to the discipline of the troops; it would be fatal to British prestige throughout Africa; and it would mean that in the whole of the continent the life of a European would not be safe in any area of native population. Further, it may be taken as certain that such action would be bitterly condemned in Parliament.

The introduction of a white force of sufficient strength to deal with a European community of 9,000 persons, the male portion of which has, almost to a man, had experience of military service (many of them senior officers or ex-officers of the regular army), and who, in the ordinary conditions of tropical life, possess arms of precision, would involve us in a costly enterprise of a character particularly unedifying to the public in this country and in the Dominions. It is, in my opinion, out of the question. Any action in the nature of a blockade, with the intention of bringing the European community to reason by cutting them off from trade facilities, would wreck the country economically, would involve a large body of public officials and the entire Indian community in much deprivation and would have as serious an effect on Uganda, which is dependent on Kenya for its outlet to the world, as it would have on Kenya itself.

As to whether any definite outbreak is seriously to be apprehended, there can be room for two opinions, and it is possible that the European community would consider their object equally served by some action, not involving violent measures, which would make the local Government, and through it the Home Government, the object of ridicule. In what way they may seek to attain this aim it is not necessary to anticipate; but in one way or another they will find no difficulty in placing us in a very awkward position.

We must for the moment await further information from the Governor, but it is already sufficiently clear that the terms of settlement now under consideration, coupled with the added condition of strict control of immigration, represent the maximum of what can possibly be conceded to the Indians, and, if the Governor's negotiations break down, it is, to me at least, equally clear that those concessions must be modified.

It is necessary for me to explain that, while the Governor's telegram is the first information which has been received showing the seriousness of the position, it has been known for some time that some form of organisation among the Europeans was being built up. It has not been possible to gauge how far there was unanimity in the European community in this matter and still less to what lengths they were prepared to go; but there has been a general feeling of uneasiness, and the representatives of the Indian community have recently drawn attention to the danger, to which they considered themselves exposed, of violence at the hands of the Europeans. The Governor's telegram is at all events reassuring on this point.

I have considered it advisable to give special prominence in this memorandum to the immediate emergency. In the second part I give an outline of the discussions, with a view to settlement, which have taken place during the last two years, and I include in various appendices the principal papers necessary to an understanding of how the present position has grown up.

II.

The history of the position of Indians in Kenya up to the end of the war may be summarised very briefly. There have been Indian merchants established along the East African coasts for a long time, and, with the opening up of Uganda, and particularly with the development of British administration in East Africa during the last thirty-five years, Indian traders began to penetrate into the interior. A large number of Indian labourers engaged for the construction of the Uganda Railway remained behind as petty traders, and at the beginning of the present century the number of Indians in Kenya greatly increased through the arrival of artisans, clerks, and traders, with a very few market gardeners. The agricultural Indian is almost unknown in Kenya.

It was, however, over the ownership of land in the highlands that Indian and European interests first came into conflict. After the influx of European settlers
—of whom there were a few dating from about 1897, and whose welcome into the country as a matter of policy may be dated from 1902—become large, the policy of the reservation of the highlands for European settlers was definitely laid down by Lord Elgin in 1908.

At that time the unofficial element on the Legislative Council was entirely nominated, and in 1909 the experiment was tried of adding an Indian nominated member. The selection made was not entirely satisfactory owing to the lack of qualification for public business of the Indian concerned, and, to some extent, to his dependence on outside Indian influences in his views on matters of policy. The appointment was not renewed when his term of office came to an end.

In 1913 a distinguished sanitation expert, Professor W. J. Simpson, furnished a report on sanitary matters in Kenya, in which he strongly advocated a system of racial segregation, both in the residential and commercial areas of the large towns. His views were accepted, and when the time came for applying them after the war this question of segregation became one of the main points at issue with the local Indian community.

In 1913 a distinguished sanitation expert, Professor W. J. Simpson, furnished a report on sanitary matters in Kenya, in which he strongly advocated a system of racial segregation, both in the residential and commercial areas of the large towns. His views were accepted, and when the time came for applying them after the war this question of segregation became one of the main points at issue with the local Indian community.

At the end of the war it was decided to give effect to the long-standing desire of the European community for representation on the Legislative Council by means of elected members. The grant of elective institutions was approved by Lord Milner in 1919, and took effect at the beginning of 1920. The Europeans elected eleven members, but there is, of course, an official majority in the Council.

In 1918 the report of a local Economic Commission of Enquiry into post-war development was published, containing references to the Indians then in Kenya, and their alleged bad influence on the natives. The Commission advocated strict control of future immigration from India. The report was very strongly worded, and it certainly added to the bitterness of feeling on the part of the Indians. The passage in question was repudiated by Lord Milner in the despatch referred to below.

As a result of these developments, a large number of claims were put forward by the Indian community in Kenya for the improvement of their position generally, including a demand for representation on an equality with the Europeans. Lord Milner received a deputation, representing the Indian community in April 1920, and subsequently addressed the Governor of Kenya in a despatch of the 21st May, 1920, of which a copy forms Appendix I to this Memorandum. In that despatch he decided in favour of the election of two Indian members to the Legislative Council on a special franchise.

The whole matter was reviewed by the Government of India in a despatch of the 21st October, 1920, which has already been published as Cmd. Paper 1.311; and before the receipt of that despatch Mr. Montagu, then Secretary of State for India, brought the matter before the Cabinet in a Memorandum of the 1st November, 1920 (C.P. 2059).

At a Cabinet meeting on the 15th December, 1920, Lord Milner was requested to consider the treatment of Indians in the Empire generally: but he was unable in the last few weeks of his tenure of office to take up this question.

When Mr. Churchill became Secretary of State he at once began discussions with the Secretary of State for India with a view to a settlement of the Kenya question by agreement. These discussions continued during the spring and summer of 1921, and in that period also the matter was brought by the Secretary of State for India before the Joint Parliamentary Committee on Indian Affairs under the chairmanship of Lord Islington. The Committee's report on this subject was published as House of Commons Paper 177. At the meetings of the Committee the Indian claims were prominently championed by Lord Chelmsford, who had previously, as Viceroy, expressed himself strongly in favour of the equal treatment of Indians, in published statements made in India. These statements are referred to in paragraph 3 of the Government of India despatch of the 21st October, 1920. Lord Chelmsford had also been instrumental in sending to Kenya Sir Benjamin Robertson, whose visit is referred to in the same despatch.

The more general question of the position of Indians in the Empire came before the Imperial Conference in 1921, and their resolution forms Appendix II to this Memorandum.

The question of achieving a settlement of the position in Kenya by a suitable application of the general principles of the resolution of the Imperial Conference was carefully discussed between Mr. Churchill and Sir Edward Northey, the Governor of Kenya, who was then on leave; and when Sir E. Northey returned to Kenya in September 1921 he took with him an outline of policy laid down by the
Secretary of State, with the intention that it should, if possible, be the basis of a settlement between the European and Indian communities.

The main features of this outline, together with the views of the two communities and the resulting suggestions by the Governor for the settlement which he favoured, are set out in parallel columns in Appendix III.

A deputation of Europeans came to England in the following winter, and an Indian deputation, consisting of persons who were already in this country, was also received by the Secretary of State.

The European deputation did not confine itself to expressing the views of the European community, but rather proposed, admittedly without authority, an alternative scheme by which Indian aspirations with regard to representation could be more fully met, provided that an unofficial majority, that is to say, an unofficial European majority, were granted in the Legislative Council, so that, among other things, full control would be given over future Indian immigration.

The Secretary of State was not prepared to consent to an unofficial majority in present circumstances, and the deputation returned to Kenya without any progress being made on this head.

The Indian deputation maintained in full the demands of the Indians for absolute equality with the Europeans.

The general policy to which Mr. Churchill inclined at that date was given in the extract from his speech at the Kenya and Uganda dinner on the 28th January, 1922, which forms Appendix IV.

Representations were received from the India Office that the state of feeling on this question in India was so acute that a settlement, involving some concession to Indians, was urgently necessary before the Indian Legislative Assembly met in September. Accordingly, an Inter-Departmental Committee, consisting of the two Parliamentary Under-Secretaries of State (Lord Winterton and Mr. Wood), with representatives of the two Offices, met several times during the summer, and made a report, which was approved by the two Secretaries of State, for purposes of reference to the two Governments, who were to be asked to report confidentially on the acceptability or otherwise of the scheme laid down. When the report was ready, Sir E. Northey’s relinquishment of office was already approaching, and Mr. Churchill considered it desirable that the scheme should be held over for consideration by his successor, Sir Robert Corydon. Accordingly, it was not possible to arrive at any conclusion before the Indian Legislative Assembly met; but owing either to a relaxation of tension on this point, or to the diversion of attention to other subjects, the meeting of the Assembly passed without any trouble arising.

The policy proposed is shown in the telegram which forms Appendix V.

The Government of India were willing to accept the scheme, though without enthusiasm. In Kenya the Indian member of the Executive Council considered it satisfactory; but all other members of the Executive Council, both officials and European unofficials, rejected the scheme, mainly on the ground that it gave no sufficient safeguard to the European community against Indian predominance in the future.

No immediate progress was possible owing to the absence of Lord Winterton in India, and later to the political crisis; but when I assumed office the discussions with the India Office were resumed between Mr. Ormsby-Gore and Lord Winterton, and they have been followed by several conversations between Lord Peel and myself.

As a consequence of these discussions, I sent to the Governor a despatch on the 14th December, which appears as Appendix VI. I pressed the Governor to make a further attempt to secure the acceptance by the Europeans of the settlement proposed in Mr. Churchill’s telegram, and I was able to assure him that a settlement would be accepted as final, both by the Government of India and here. I drew his attention to the very serious position which had arisen both in India itself and in the relations between India and other colonies over Kenya, and I expressed my opinion that there was nothing in the terms of the settlement which could be regarded as dangerous to European interests.

In that despatch it will be observed that I also expressed the view that the question of immigration control could not be dealt with until the necessity arose. At that time I had before me figures showing that in the twelve months, April 1921 to March 1922, 5,435 Indians had left Kenya, while only 3,612 Indians had entered the country. Since then I have received information from the Governor that during

* It is perhaps desirable to make it clear that Mr. Churchill did not expressly accept the report. He suspended judgment pending the receipt of the views of the Kenya Government.
the following nine months ended December 1922 there was an excess of arrivals over departures amounting to 2,888, or nearly 4,000 per annum.

In view of these figures, there can be no doubt that the necessity has arisen, not only from the point of view of preventing the Europeans from being "swamped" by Indians, but also in the interests of the natives, a matter to which attention has just been drawn in a joint telegram received from the Bishop of Mombasa, the Church of Scotland and the Church Missionary Society. Accordingly, when I received from the Governor the telegram of the 1st February, which appears as Appendix VII, I felt it necessary, as I have explained in the first part of this Memorandum, to give my definite assurance that the adoption of a settlement on other points would involve also the passing of a strengthened immigration law with property and education tests of general application; but at the same time I made it clear that my approval of such a measure must be a definite part of a general settlement of the problem.

February 14, 1923.

DEVENSHIRE
APPENDICES.

I. LORD MILNER'S DESPATCH OF MAY 21, 1920.
II. RESOLUTION OF IMPERIAL CONFERENCE, 1921.
III. PARALLEL STATEMENT IN CONNECTION WITH THE 1921 OUTLINE OF POLICY.
IV. MR. CHURCHILL'S SPEECH OF JANUARY 28, 1922.
V. TELEGRAM OF SEPTEMBER 5, 1922.
VI. DESPATCH OF DECEMBER 14, 1922.
VII. TELEGRAM OF FEBRUARY 1, 1923.
APPENDIX I.

Despatch of Lord Milner, dated May 21, 1920.

EAST AFRICA PROTECTORATE.

Sir, Downing Street, May 21, 1920.

I HAVE the honour to inform you that I have now had an opportunity of discussing personally with Major-General Sir Edward Northey 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 April by Lord Islington 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.

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 selection 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 Europeans. I fully share this opinion, and I have hitherto held the view that having regard to the very small number of the Indian community who can be regarded as qualified to exercise a franchise, the time has not yet come for basing the representation of Indians in the Protectorate on the elective principle. I am, however, impressed by the representations which have been made to me both by the Indian representatives from East Africa and by the Secretary of State for India as to the importance which is attached by the Indians to the election of their members. I have, therefore, decided that arrangements shall be made for the election of two Indian members of the Legislative Council on a special franchise as to which I shall await your recommendations.

4. It will follow as a result of elective representation of Indians on the Legislative Council that the same arrangements should be made in connection with municipal councils, and in this case also I shall await your recommendations as to the detailed arrangements to be made.

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, 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 reaffirmed 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 Asians, 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 Asiatics 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.

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

9. As regards education, to which reference is made in the memorial of the 22nd March, 1919, 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 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 recognised by the community to which they belong, to be duly trained in such practice.

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 practice 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 memorialists 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 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 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.

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 points of the report.

I have... 

(Signed) MILNER.

The Officer Administrating the Government of the East Africa Protectorate.

APPENDIX II.

Resolution of Imperial Conference, 1921.

IX.—Position of British Indians in the Empire.

The question of the position of British Indians in the Empire was discussed first at a plenary meeting, when the representatives of India fully explained the situation and the views held in India on the subject. The question was then remitted to a special Committee under the chairmanship of the Secretary of State for the Colonies. At a final meeting on the subject the following resolution was adopted:

"The Conference, while reaffirming the resolution of the Imperial War Conference of 1918, that each community of the British Commonwealth should enjoy complete control of the composition of its own population by means of restriction on immigration from any of the other communities, recognises that there is an incongruity between the position of India as an equal member of the British Empire and the existence of disabilities upon British Indians lawfully domiciled in some other parts of the Empire. The Conference accordingly is of the opinion that, in the interests of the solidarity of the British Commonwealth, it is desirable that the rights of such Indians to citizenship should be recognised.

"The representatives of South Africa regret their inability to accept this resolution in view of the exceptional circumstances of the greater part of the Union.

"The representatives of India, while expressing their appreciation of the acceptance of the resolution recorded above, feel bound to place on record their profound concern at the position of Indians in South Africa, and their hope that by negotiation between the Governments of India and of South Africa, some way can be found, as soon as may be, to reach a more satisfactory position."

Also Extract from Mr. Churchill's Speech at the Conference.

Status of Indian Settlers.

Now, I have only one other topic which I wish to refer to because I do not wish to trespass too long on the attention of the Conference. It was raised by Mr. Srinivasa Sastri this morning—the question of the Indian settlers in some of our Colonies—and no doubt that problem also occurs in South Africa to a certain extent. I think there is only one ideal that the British Empire can set before itself in this regard, and that is that there should be no barrier of race, colour, or creed
which should prevent any man by merit from reaching any station if he is fitted for it. At any rate, I do not feel able to adopt any lesser statement of principle in regard to the Colonies but such a principle has to be very carefully and gradually applied because intense local feelings are excited, and there is no doubt that extraordinary social stresses arise when populations are intimately mingled in some of these new countries and brought into severe economic competition. The question reaches its most acute form in Kenya.

These matters are now being discussed, and I hope to find a means of overcoming difficulties in the application of the broad principles.
### APPENDIX III.

<table>
<thead>
<tr>
<th>Heading</th>
<th>Mr. Churchill's Memorandum Suggests</th>
<th>Views of Kenya Europeans</th>
<th>Views of Kenya Indians</th>
<th>Governor's Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Franchise and representation on Legislative Council</td>
<td>Common electoral roll. Qualifications £1,000 capital or £150 income, and reasonable knowledge of written and spoken English. Eight electoral areas, of which about three would be Indian.</td>
<td>There should be, as at present, eleven elected Europeans, but only two nominated Indians.</td>
<td>Common electoral roll. £500 capital or £100 income, with reasonable knowledge of written and spoken English. Twelve constituencies, of which half should be European and half Indian.</td>
<td>Election of five Indian members of Legislative Council on communal register. Retention of ten seats by Europeans, the present eleventh seat (the Coast) to be one of the five Indian seats.</td>
</tr>
<tr>
<td>Immigration</td>
<td>Same qualifications as for voters' roll</td>
<td>Restricted as suggested in Mr. Churchill's memorandum.</td>
<td>Immigration laws to remain as at present.</td>
<td>No alteration.</td>
</tr>
<tr>
<td>Executive Council</td>
<td>One Indian member</td>
<td>No Indian</td>
<td>One Indian</td>
<td>One Indian</td>
</tr>
<tr>
<td>Highlands</td>
<td>To be reserved for Europeans</td>
<td>To be definitely reserved by Statute for Europeans.</td>
<td>All land available to be sold first to Europeans, afterwards unrestricted on transfer.</td>
<td>To be reserved for Europeans.</td>
</tr>
<tr>
<td>Segregation</td>
<td>Indian voters not, but remainder to be segregated in residential areas. No segregation in commercial areas</td>
<td>Absolute segregation in residential and commercial areas.</td>
<td>No segregation of any sort</td>
<td>Segregation in residential but not in commercial areas of townships.</td>
</tr>
</tbody>
</table>

Municipal representation under discussion between the Indian representatives and the Nairobi Municipal Council. Basis for settlement: Division of town into wards.
APPENDIX IV.

Mr. Churchill’s Speech at the Kenya and Uganda Dinner, January 28, 1922.

(Extract.)

No doubt you have acquainted yourselves with the discussions which took place early last year during the Imperial Conference. No doubt you know that we have laid down the principle that, so far as practicable throughout the whole range of the British Empire, colour is by no means to be a bar. We must ask you, who represent the interests of Kenya, to help us as much as you can in the general interests of the British Empire.

I ask all those interested in East Africa to try and take a broad Imperial view of the position of the Indians who are at the present time in the two countries of Kenya and Uganda. Let me make one or two statements which will, I trust, limit the anxieties which are naturally felt by the white population. I am now in negotiation with Lord Delamere on the general question of what is to be done to regulate the position of Indians in East Africa. We consider we are pledged by undertakings given in the past to reserve the Highlands of East Africa exclusively for European settlers, and we do not intend to depart from that pledge. And it must be taken as a matter which is definitely settled. We shall apply broadly and comprehensively, so far as is practical, Mr. Rhodes’s principle of equal rights for all civilised men. That means that natives and Indians alike, who reach and conform to well-marked European standards, shall not be denied the fullest exercise and enjoyment of civic and political rights.

The standard to be adopted is obviously a matter of the greatest importance, and is certainly a matter in which the European community have a right to be fully consulted. We consider that the interest of the British settlers and the native population alike requires that all future immigration of Indians shall be strictly regulated, and the same principle of equal rights and conditions for all civilised men shall rule in respect of immigration laws as in all others. We recognise that the laws relating to immigration and the administration of them, more than almost any other matter, must be a subject of the closest consultation between the official Government and the existing residents in the country. We do not contemplate any settlement or system which will prevent British East Africa—Kenya, as it is now known—becoming a characteristically and distinctively British colony, looking forward in the full fruition of time to responsible self-government.

APPENDIX V.

Paraphrase Telegram from the Secretary of State for the Colonies to the Governor of Kenya.

(Sent 5 P.M., September 5, 1922.)

September 5.

PRIORITY A. Confidential. After protracted discussions, have reached provisional agreement with India Office which is intended to meet their difficulties in India without departing from the spirit of my previous declarations. Substance follows of the announcement which, subject to your Government’s observations and those of Government of India, to whom a similar telegram has been sent, I should propose to make at early convenient date. Please consult Executive Council confidentially and send your observations by telegram as soon as possible, bearing in mind that the proposals represent a nicely balanced agreement between the two Secretaries of State.

Statement begins:—

“1. Franchise.—A common electoral roll for all British subjects and protected persons (male or female), age 21 years and upwards, possessing qualifications which are to be prescribed.

“2. Qualifications.—Either a complete census or a test census to be held in order to determine a method of adjusting qualifications which will approximately result in a 10 per cent. Indian electorate. To obtain this percentage it might be
necessary to adopt alternative property or educational qualifications instead of a combined qualification. Should the census show that in order to get the 10 per cent, the qualification standard would obviously be unreasonably low, reasonable standards will be laid down irrespective of the resulting percentage. Qualifications to be settled in time to enable the new Indian electorate to vote at the general election next March. European voters now on register will be admitted to the new register whether or not they possess the new qualifications, but all fresh applicants for registration, whether Europeans not registered under Legislative Council Ordinance, 1919, or Indians, will be required to possess these qualifications.

"3. Constituencies.—The official majority will be retained. The following are alternative proposals:—

"(a) Eleven elected members representing seven constituencies, three of which return one member and four two members. In the former, European candidates only will be qualified for election. In latter, there will be one European seat and one Indian seat, giving seven Europeans, four Indians.

"(b) The India Office suggest that there should be twelve elected members representing four constituencies, each constituency returning three members (or three returning three members and one returning two members). One seat in each constituency should be Indian, the rest European, giving eight Europeans and four Indians. This latter alternative does not prejudice the position of the Europeans, and might be more acceptable to the Indians. Your Government should examine and report upon the possibility of giving effect to alternative (b), but the reply to this telegram should not be delayed for that purpose.

"(Note.—Alternative (b) involves admitting the principle of Indian representation in each constituency, and this may prove to be inconvenient when the necessity for representation of Africans arises.)

"4. Municipal Franchise.—It is agreed that in municipalities Indians must be given adequate representation, on an elected basis where such basis already exists for Europeans, but detailed arrangements cannot be decided upon until the receipt of the despatch which the Governor is sending.

"5. Executive Council.—Existing Constitution provides for the appointment of such unofficial persons as the Governor may appoint from time to time to the Executive Council. There is now one unofficial Indian member of the Executive Council under this provision, and it should be understood that this arrangement will continue. No distinction will be made between Europeans and Indians in deciding on the fitness of individuals to be members of the Executive Council.

"6. Segregation.—There should be no segregation, either commercial or residential, on racial lines, but the Colonial Government or municipal authorities should have power to impose at their discretion sanitary police and buildings regulations, subject to these regulations containing no racial discrimination as such.

"7. Immigration.—An announcement that in present circumstances no change is contemplated in the existing regulation.

"(Note.—Throughout discussions with India Office I have made it plain that my view is unchanged as to immigration control, and that if the danger ever arises of a large influx of Indians I hold myself entirely free to take action which may be necessary. In view of the figures which you have supplied as to the influx and efflux of Indians in 1921-22, I have not felt it necessary to insist on any alteration of the law at present.)

"8. Highlands.—The following will be the terms of the announcement:—

"The Colonial Office cannot contemplate any change in the existing law and practice, having regard to past policy and commitments. The India Office take note of this view, but are unable to accept it, and reserve the right to reopen the question if need be, at some future date."
Sir,

I HAVE the honour to inform you that, after the receipt of your telegram of the 21st September, it was not found possible, owing to Lord Winterton's absence in India, to resume discussion at once with the India Office on the question of the position of Indians in Kenya, and that the matter has since been further delayed by the political position in this country.

2. I have now given full consideration to the question, and I feel bound to press you to make a further attempt to secure the acceptance by the European community in Kenya of the settlement proposed in Mr. Churchill's telegram of the 5th September.

3. I have been assured that that settlement, while not fully representing what the Government of India consider is due to the Indians in Kenya, would be accepted by that Government as a final settlement of the controversy; and that, both by the Government of India and by the Secretary of State for India in this country, every support would be given in carrying out the policy laid down in the terms of settlement and in resisting any attempt to obtain further concessions for the Indians.

4. I am confident that if the terms of settlement were accepted by the Government of Kenya, on the same understanding that that Government will accept them as a final settlement of the controversy in the form of a compromise intended to meet the legitimate aspirations of the Indians without sacrificing anything really vital in the position of the Europeans, an end could be found to a dispute which has in many ways hampered the progress of Kenya without adding to its reputation in this country, and has given rise to a serious Imperial problem which is not only causing serious embarrassment to India, but is injuriously affecting the interests of several Colonies other than Kenya. Unless an agreed settlement can be reached in Kenya, the question will continue to be an open sore in the relations between India and the rest of the Empire, and will be raised by India at Imperial conferences and on every other possible occasion.

5. The terms of settlement were carefully discussed between Ministers and officials representing the two Departments of State, and I see nothing in them which need be unacceptable to European thought in Kenya if they are regarded without prejudice and without an apprehension, for which there is no present justification, of a future variation of the terms.

6. On the question of representation I am satisfied that no solution can be found on any basis other than that of a common electoral roll. On that basis it appears to me that, with a suitable determination of the qualification of a voter and with the limitation of the numbers of seats which is laid down in the terms of settlement, there should be no danger of an Indian predominance in future elections. It is, in any case, impossible for me to see what safeguard is contemplated by the European members of the Executive Council, and what safeguard would, in fact, be effective in preventing in any conceivable circumstances a revision of either qualifications or representation. The suggestion which has on a previous occasion been made, that the safeguard should take the form of the grant of an unofficial European majority in the Legislative Council, is one which I must rule out as being impracticable and undesirable from points of view quite unconnected with the Indian problem. It should definitely be understood that, in my opinion, the grant of responsible Government to Kenya will, in the special circumstances of the Colony, be out of the question within any period of time which we need take into consideration.

7. There is no present indication of any Indian immigration into Kenya, and I consider that it is useless to attempt to take power to control immigration until the necessity arises. I have been able to satisfy myself that at this moment any attempt to restrict immigration will be regarded throughout India with suspicion, which would in no way be allayed by the fact that the conditions were in form applicable equally to persons of all races. The present economic conditions of the Colony make me reluctant to take any steps to encourage actively further immigration either of Europeans or Indians.

8. With regard to the reservation of agricultural land in the highlands to Europeans, the terms of settlement lay down that such reservation is the policy and practice of the Colonial Office, and I am advised that the reservation made by the
India Office in retaining the liberty to reopen the question is essential in view of strong public sentiment on the subject in India. But there need be no misgivings in Kenya as to the possibility of the question being reopened by the present Secretary of State for India, and for practical purposes the position is exactly as if a decision in favour of the reservation of the highlands were given by the Cabinet. But it is not practicable to adopt the suggestion that a formal decision of the Cabinet on this subject should be obtained, as the effect on public opinion in India of the announcement of such a decision would, according to my information, be fatal to the chances of an amicable settlement.

9. I request that you will take this matter into further consideration with your Executive Council immediately, and that you will do your utmost to secure the acceptance of the terms of settlement. I regret that I am not able to adopt the suggestion that the terms should be published for local discussion. They were referred to India and Kenya expressly for the purpose of obtaining the views of the two Governments as such, and if discussion were to be permitted in Kenya it would be impossible to avoid a corresponding discussion in India of a subject which has been made the test question of India's attitude to the Empire.

10. With regard to the question of the election of a new Legislative Council in the early months of next year, I trust that a settlement of outstanding problems will be possible in time for legislation to be passed permitting a new Council to be elected on a new basis at the proper date. If, however, this is impracticable, it will be necessary for a short ordinance to be passed extending the life of the existing Council for a period of twelve months or for such shorter period as you, as Governor, by proclamation in the Gazette, may direct.

I have, &c.

(Signed) DEVONSHIRE.

APPENDIX VII.

Paraphrase Telegram from the Governor of Kenya to the Secretary of State for the Colonies.—(Dated February 1, 1923.)

INDIANS. 1st February. A meeting fully representative of the thirty-six leaders of all shades of European opinion, including three of the leading missionaries, conferred under guarantees of secrecy for three days. Their attitude was respectful and calm, but quite unanimous. The result was embodied in letter to me dated yesterday. The following are the points:

(a) They regret they are unable, after the most careful consideration, to accept the proposals contained in Mr. Churchill's telegrams of 5th September, and they believe it to be quite useless to submit them to public opinion.

(b) A resolution protesting against prolongation of the present Legislative Council as matter of valuable principle was passed. The following words were used: "Reserving to European community the right to take any steps it may consider necessary in this connection." The resolution will be sent to you by mail.

(c) They earnestly ask that you will authorise the passage of an Immigration Regulation Bill at the Legislative Council session, which begins 5th February, on the following lines:

1. The general provisions of Immigration Restriction Ordinance, 1906, as subsequently amended, to stand, but with the following alterations, and to be named "The Immigrants Regulation Ordinance."

2. Amendment of Section 11 as follows: Deposit for all classes and races (except indigenous natives of Africa) to be Shipings 1,000. One week is given to the immigrant to afford satisfaction to the Immigration Officer prima facie proof that he is not a prohibited immigrant. Failing such proof he shall be deemed to be a prohibited immigrant and shall be returned to his port of embarkation, the cost of his return to be defrayed from his deposit and the balance paid to the immigrant. If such proof is furnished, Immigration Officer to have discretion to, at any time within one year, bear interest at, say, a fraction below the current rate. (N.B.—This is to prevent any organisation for financing immigrants in bulk.) If in the course of the year the immigrant is shown to be a prohibited immigrant he may be deported under a magistrate's order.
3. Any person or class of persons deemed by the Governor-in-Council either on economic grounds or on account of standard or habits of life to be unsuited to the requirements of the country, shall be excluded as a prohibited immigrant.

4. An educational test shall be applied to all immigrants (except natives of Africa), to consist of ability to read and write a passage in a European language, to be selected by Immigration Officer. Appeal to lie to a magistrate. (N.B.—I understand Sub-sections 3 and 4 are similar in their intention to Section 2 (1) and (2) of the Southern Rhodesia Immigrants Regulation Ordinance, 1914.)

Paragraph 2. Such a Bill is considered as a most valuable safeguard and is [based upon] the resolution of the Imperial Conference, under which every community shall determine its own population, and also upon the real nature of our trusteeship of African populations. They believe that this trusteeship and the British genius for Colonial Government must not be diluted by the admission of Asiatic control beyond a definite limit. Whole basis of such a Bill is that it must be effective, in fact, under the principle of the Imperial Conference. The request is also based on your cypher telegram of 18th January, paragraph 4.

Paragraph 3. I urge that you agree to the immediate passage of this Bill, and I can see no reason against this course. The present Immigration Law must some day soon be modified, and so long as the law avoids real racial discrimination, and so long as it is justly administered, I submit that other State Departments cannot properly object to your action. The benefit of the Bill as a factor in settlement will be almost nullified if secrecy and delay are maintained too long. I am convinced that your approval will alter the whole complexion of the negotiations. The leaders guarantee to give their most earnest consideration to the other outstanding points, if the stumbling block of the immigration difficulty is got rid of at once.

Paragraph 4. I have held two conferences with leading Indians, who now take their stand upon Mr. Churchill’s telegrams of 5th September, but I may add that I believe that they are willing to abandon all their claims to highlands and are prepared to discuss modifications of those telegrams, provided that essential basis is not destroyed.

Paragraph 5. The leader of the Scotch Mission has authorised me to say that all Protestant Missionaries are strong supporters personally of colonists, although, of course, they cannot bind their societies.—Coryndon.