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SECRET.

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CABINET.

Throughout the course of the discussions which have taken place between the Colonial Office and the India Office on the Kenya problem, I have of course been in close and constant consultation with the Government of India. I have now received, in the telegram which I circulate below, the Government of India's criticisms of the proposals contained in the Colonial Office Memorandum which is being placed before the Cabinet. I propose to take the opportunity of commenting on this telegram when the subject is brought up for discussion in the Cabinet.

PEEL.

20th July 1923.

*Telegram from Viceroy to Secretary of State for India, dated
16th July 1923.*

Kenya. Reference your telegram 2588, dated 12th July. We fully appreciate effort made to meet Indian position by the abandonment of all ideas of segregation, and by the statement of policy that His Majesty's Government could contemplate, only in extreme circumstances, legislation designed to exclude from British Colonies immigrants from any other part of the Empire. Coming to the principal recommendations contained in your telegram, our views are as follows:—

Sections 1 and 2. We have no observations to make on the general statement of policy embodied herein.

Section 4. We desire to stand by the attitude taken up by us in our telegram dated 11th September 1922, regarding the Wood-Winterton report. In respect of a common electoral roll, we recall that the principle of a common roll was accepted, not only in the Wood-Winterton Agreement, but also by Mr. Churchill, and was recently affirmed by the Duke of Devonshire in his Despatch to the Governor of Kenya dated 14th December 1922. It is a matter of great disappointment to us that the Colonial Office now propose to abandon this principle in favour of a system of communal representation. It is alleged, as a primary argument in favour of the latter principle, that it is compatible with African representation in due season and with Arab representation immediately. We point out, however, that a common electoral roll would still enable protection to be given to the claims of these classes by the provision of reserved seats, the principle of which was accepted by the Wood-Winterton proposals. In the second place, it is argued that the communal system of representation permits a wider franchise for Indians. We have always recognised that a common electoral roll would, at any rate in the first instance, reduce the size of Indian electorate. We have, however, been prepared to face that disadvantage, in view of the importance which we attach to the principle of a common electoral roll, and in this we believe that we have always had a great body of Indian opinion in Kenya on our side. Thirdly, we do not accept the statement in the Colonial Office draft that the advantage of a common electoral roll is illusory. On the contrary we have always maintained, and we still maintain, that there is no prospect of composing the racial differences and tension in Kenya unless and until Indians and Europeans exercise the franchise on a common basis. In this connection, we would refer you to the experience already gained in the Cape Colony. Our objection to the communal system is that it separates off Indians from Europeans, and, so long as this system is maintained, the two communities would always tend to lay greater emphasis on points of difference than on those of common interest. Communal representation was reluctantly accepted by us in India at the request of minority of communities, but experience is already tending to show that the system is leading to the very dangers which we have emphasised above. We cannot admit the analogy of Fiji where conditions are altogether special, and where Indians themselves are in favour, for special reasons, of communal representation. We have already pointed out that

Indians in Kenya prefer the principle of a common electoral roll. We desire to add that the reason why we attach so much importance to the principle of a common electoral roll is that we cannot in any way derogate from the claim which we have always made, that Indians in a Crown Colony must be accorded equal *status* with Europeans. We trust that His Majesty's Government will find themselves able to accept these views, which are strongly held in India. If, however, the decision goes against us we hope it will be made clear, in any pronouncement that His Majesty's Government may make, that the present arrangement is provisional only, and will be reviewed when any change in the present system of Crown Colony government is contemplated. Your telegram is not clear as to the numbers of seats to be reserved for Indians under the communal system. If we understand the proposal correctly the number of European seats will remain at 11, as at present. We would remind you that the Wood-Winterton proposals contemplated a reduction of European seats to seven, four seats being provided for Indians; we then pressed for a ratio of five Indian to seven European seats, and we again urge the maintenance of the same proportion.

Section 6. In Nairobi municipality, where there is not an official majority, we do not agree to communal elections, and adhere to the views expressed in our Despatch dated 21st October 1920.

Section 7. We assume that the abandonment of segregation applies equally to the rural areas.

Section 8. Highlands. We adhere to the views expressed in para. 3 of our telegram of 11th September 1922. The right to reopen this question should be asserted, and exclusion of Indians should not in any case be embodied in legislation. We ask His Majesty's Government to realise the impression created in India by the fact that this discrimination is specifically stated as being in favour of Europeans, and not in favour of European British subjects. It would, therefore, be possible to grant lands and permit their transfer in Highlands to Europeans of other nationalities, and even to ex-enemy subjects, while excluding Indians on the plea of a commitment alleged to have been given by Lord Elgin, the validity of which we have always seen reason to doubt. In this connection, we would refer you to para. 6 of the observations of the Secretary of State on the memorandum of the Secretary for the Colonies, forwarded with India Office letter No. I. and O. 1267, dated 5th September 1921.

Section 9. Immigration. We welcome the principle contained in opening sentence of this paragraph. The latter part of the paragraph, however, seems to contemplate the enactment of an immigration law and the constitution of a Board in order to supervise immigration into Kenya. We note further that the purpose of this law will be to protect the economic interests of the Africans, and in particular to prevent the inundating numbers of artisans and clerks from India. This law, if a law is intended, will not include Indians as such. Our experience, however, of similar laws in other parts of the Empire leads us to apprehend lest the law may be so worked as to exclude Indians. In practice, these immigration laws are justified in other dominions on the same grounds for economic arguments as are contained in this paragraph of your telegram, and we feel we have grave reason to fear that if the Immigration Board, as is proposed, is composed of a majority of Europeans, precisely the same results will follow as those of which we have had so unfavourable experience in other parts of the Empire. We cannot at present conceive circumstances under which it would be justifiable to exclude Indian immigrants of the class named. Finally, restrictions on Indian immigration into Kenya will be prejudicial to Indian interests in Uganda, and will also provoke unfavourable comparisons with right of entry enjoyed in Tanganyika under mandate.

In conclusion, if His Majesty's Government are unable to accept our views, we earnestly submit that when their final decision is announced in the House of Commons, they should take steps to make clear the attitude which the Indian Government has assumed on this question. It would react very unfavourably on Indian opinion if it were thought that we had acquiesced in, or failed to make representations against, His Majesty's Government's decision, if it should be in terms suggested.