

1931 Kenya

No. 1188

SUBJECT CO. 533/411

Office of Chief Native Commissioner
Lalaji, Mombasa, etc.

Previous

1815/20

See 1627/14

Subsequent

1820/13

Memorandum by Genl. Bottomley

Genl. Bottomley

I have with great help from Mr. Pender... accompanying letter to Genl. Bottomley... National Commissioner, as directed by the Secretary of State...

It was not then clear whether the note was to be included in the Cabinet memorandum (draft now being typed). But in its form it is suitable for that purpose - preferably as an Appendix.

Wes

8/5/31

Secy of State

(through Dr. Shields)

Submitted. I suggest that the next move should be to consult

Genl. Bottomley on Genl. Bottomley's proposal. I do not recommend it being included (as in the original...)

in your Cabinet Paper on
Classes Union: because, as I
have said before, the less we
mix up the internal machinery
of Kenya with the question of
Classes Union the better.

I personally would prefer
to adopt the Tarifa-yaka system
in Kenya; and merely have
a Secretary for Native Affairs,
~~with a Secretary~~ but if something must
be done to raise the status of
Mr Mansell's successor I
think Sir C. Bottomley's proposals
are the best.

J.H.G.
11.5.31

I agree that this shld not go to the
Cabinet. I would go rather further than
Sir C. Bottomley but his proposals are
certainly an improvement on the
present position. I would suggest that
it would be well to have as many purely
native areas as possible. I think the
matter should be put to Sir Bottomley and he might be

asked about his view
of the possibility of making
the lower independent of
the Secretariat. I think he
ought to be told of the relation
of this to the cable proposals.
T.S.P. 11.5.31

This should go to
Sir S. Byrom very confidentially
— perhaps a personal letter
would be best — and ask him
for a general reply — explaining
as to the relation to the
"Cable" proposals, which, in
one or other form, have been
strongly pressed on the Joint
Committee, but which appear
to them inadvisable, if not
impracticable. Let me see
Draft

P. 12/5

Sir C. Bottomley

I have tried a diff. letter — very
much for reasons — covering
the whole ground.

Alexander
19.5.31

Wes. 20.5.31

J.H.G.
20.5.31

I have thought it more convenient for
reference to make my comments marginally.
The draft letter in its first part is, of
course, only the letter part and the memo
I think, require revision. T.S.P. 20.5.31

2. To Sir J. Byrne (etc.) Coms. 21 MAY 1951

see to Governor (P.P.)

21st May 1951

WJ

Sir J. Byrne

10th June

DESTROYED UNDER STATUTE *if not reply to no 2 and by hand*

(to me today)

? *W. G. G. G. G.*

(it should be here on duty (I think))

WJ

15/6/51

see P 15.6.51

WJ

5. Sir J. Byrne

9th June

submit proposals for supervision of native affairs and consider necessary that an officer is appointed to advise Minister on native affairs etc. state as to powers of Provincial Commissioner and setting up of native affairs committee as to filling post of C.N.A.

(1) This is, to my mind, a very good letter. It is especially gratifying that Sir Joseph Byrne has initiated a procedure - by way of a Native Affairs Committee consisting

of

of the Governor, Colonial Secretary, Chief Native Commissioner, Director of Agriculture, Chief Veterinary Officer, Director of Education, Director of Medical and Sanitary Services and Director of Public Works - to secure co-ordinated consideration of measures affecting native welfare, and in particular the development of the Native Reserves. This co-ordination of effort is long overdue. In making this innovation I believe that Sir Joseph Byrne has characteristically gone right to the root of the matter, and would seem that apart from advantages in decentralisation so far as the Secretariat is concerned there is the same principle underlying the proposed reorganisation of the Provinces, since the Provincial Commissioners would become, as it were, Governors of their Provinces, entrusted with a real power to co-ordinate work in their respective areas.

(2) Given the procedure which Sir Joseph Byrne has already initiated, and given a Secretary for Native Affairs (or Chief Native Commissioner) who would function in the way which he suggests, it is difficult to say that, on merits anything more or anything better could be required.

(3) But Kenya is unfortunately different from other Colonies, in that so large an amount of prejudice has grown up in this country against the Administration. I do not say that there is not room for improvement; for there is, and we are now focussing attention upon the most important matters in which improvement is called for, viz. land taxation.

taxation and forced labour. But the question really is whether the Secretary of State would be able to back the new Governor in what is, in itself, a reasonable scheme for native administration and one under which the necessary improvements in native administration could, I feel sure, be effected, when that scheme does not provide for the very special position of the Chief Native Commissioner which had been postulated here as necessary for meeting criticism in this country and enabling the Secretary of State to resist proposals for the division of Kenya into native and non-native areas. It would be a great pity to force upon Sir Joseph Byrne an alternative arrangement in which he does not believe, at any rate until his own scheme (which, I suggest, would be readily accepted for any other territory than Kenya) has been tried and found wanting. But if circumstances are too strong for the Secretary of State, then it will, I fear, be necessary to override the considered views of the Governor and make him introduce a more "showy" scheme, even if it is less effective administratively.

- (4) As regards the detail of this letter:
- (a) Sir Joseph Byrne can be re-assured as to paragraph 2: we had not meant to suggest that the Governor of Kenya was stepping aside from his Departmental Heads and one knowing Sir Joseph Byrne

*You had said that
that it was wrong
then so*

and his methods, would have thought of such a thing as is the least likely.

Wes

(b) The idea that the Secretary for Native Affairs (or Chief Native Commissioner) must spend the greater part of his time in touring and inspecting and driving is absolutely right. How far it may have been his own fault, I do not know, but it was, I believe, largely through his remaining most of his time in his offices at Headquarters that Mr. Maxwell's courted failure, but there is the other side to the case - i.e. Executive Council, Legislative Council, Chiefs and District Commissioners upon which the Chief Native Commissioner is expected to serve and indeed to supervise or be represented, probably if the Governor's proposal was adopted, and even if our suggestion as set out in No. 2 were adopted, a permanent Assistant would be wanted, sufficiently experienced to deputise on Committees etc.

(c) I cannot altogether clear how the Heads of Technical Departments would fit in with the Provincial Commissioners under the proposed scheme, giving the latter general executive powers in their Provinces, but this is a matter for the local Committee which is now considering the scheme to work out.

(d) The ^{Governor} ~~Secretary~~ would modify the suggestion that he must advise the Secretary of State whenever on any matter affecting the interests of the native the views of the Chief Native Commissioner are not accepted by Government, but only to the extent that it should be left to the discretion of the Governor, who would do this on important matters.

matters. I do not think that there is any difference in intention; it is true that the memorandum (No. 1) which I helped to draft, is quite general in its phrasing, but I had not myself meant to imply that every petty question affecting this native or that native would have to be dealt with in this way, and I should have expressed the real intention better if in paragraph 5 I had added the words "of importance" after the word "matter".

(e) As to salary, the Secretary of State suggested rounding up to £1,500; the Governor prefers to take the ordinary Provincial Commissioner (1st grade) pay of £1,350 with an allowance of £100. He says "personal allowance", but he can hardly mean that; it would necessarily be a non-pensionable allowance, I think, under this scheme.

The critics may say that this means a further diminution in status, as the substantive pay was previously £1,450. But this would be a very finicking criticism, but if it must be allowed for and anticipated, this could be done by making the allowance somewhat larger, say £200.

(5) There is no point in going into the question of personnel until a decision is taken as to status and pay. I would however mention that if the Department were asked to make a list of "possibles"

from

from the Kenya service, Colonel Watkins and Mr. Hale, both of whom are mentioned by the Governor, would be included, but I should be sorry if Mr. de Fontaine, who is now a fairly senior District Commissioner, were not also included in any list which was drawn up.

Geoffrey

3-1

The question turns so entirely on the passages which I have marked A in Mr. Parkinson's minute and on page 5 of the Governor's letter that I do not think it is possible to say much at this stage.

If it is essential that the Chief Native Commissioner should definitely be given a status as against the Governor, he must have it. But if it is merely a question of the Secretary of State on the face of criticism here on any point being able to satisfy himself that he knows the mind of the Chief Commissioner, I think that a more informal arrangement is possible.

West African Governors (Sir J. Byrne among them) have a habit of incorporating in a despatch extracts from memoranda furnished to them by departmental heads. Sometimes one cannot help wondering what was in the portions not embodied in the despatch. It would be very convenient if any such doubt arose on any important matter concerning native welfare in Kenya, that I think that if the Chief Native Commissioner were given the status of an ordinary departmental head, or even of a Secretary for Native Affairs, it would only be necessary in addition to have a private arrangement

arrangement with the Governor that he should in fact, if not as a matter of compulsion, send us in full any expression of views which he may receive from that officer. It would be explained to ^{the Gov} him that while the Secretary of State himself would not suppose that there was any suppression, it would be very useful in meeting possible criticism here for him to be able to say that he had the full expression of the Chief Native Commissioner's views.

W.L.S. 3.7.31.

*Sec of State
(through Dr Shields).*

I do not think that we should allow ourselves to be influenced by fear of criticism here.

I am of opinion that the Governor's proposals are sound.

*B.H.G.
8.7.31.*

I consider this a very important matter, and I am sorry that I do not, in agreement with the previous minutes.

I must frankly say that I am disappointed with the Governor's letter, as I have also been in his comments on taxation, and other matters.

I quite agree that we should not be influenced if we think a thing is right, by criticism here, but I do not feel that what is proposed is right. I am surprised rather that Mr. Parkinson should be able to support the Governor's views so whole-heartedly, in view of his knowledge of the position in the Joint Committee. The situation, broadly, is that two years ago the status of the Chief Native Commissioner was reduced, and he was made a much less important person. The change was made by the Governor (Sir Edward Grigg), and whether or not it was directly called for by the Unofficial Members, there is little doubt that it had their approval and backing. The next stage which has been asked for by the Unofficial Members has been the increase of status and power of Provincial Commissioners, and the total or practical elimination of the Chief Native Commissioner, as one who would be, in the new circumstances, a fifth wheel to a coach.

It has to be noticed that, at the time of the reduction of status of the Chief Native Commissioner, the Provinces were re-arranged so as to make as many as possible mixed areas. This

means the maximum amount of white settler influence on the affairs of the Provinces, with only a man of Provincial Commissioner's rank to withstand any pressure adverse to native interests. This will give a considerable increase in power to the settlers, who would retain their central influence, and have it supplemented by local effort in the Provinces. It is quite a natural and clever development of the able politicians who direct the affairs of the white community in Kenya.

On the other hand, we find in the Joint Committee - and with a good deal of support from outside of the Committee - distinguished members pressing for a complete break between white and native administration, for separate finance, etc., as being in their opinion the only way in which the interests of the natives can be adequately protected in a community where there are competing claims, and where the white community depend entirely on the black community for their labour supply.

I have already indicated more than once that I do not think Lord Lugard's proposals are the best that we can do. At the same time, I have made it quite clear that in my view, the only alternative to them is a strong, and, to a large extent, autonomous,

native

native department, having at its head as Chief Native Commissioner a man of character and responsibility, with direct access to the Governor, and with the right to have his observations on any subject transmitted to the Secretary of State through the Governor. That being the present position, this letter comes from the Governor of Kenya advocating and recommending what is pretty much the white settlers' scheme, and which shows an entire lack of appreciation of the necessity for reassuring British public opinion - to say nothing of local native opinion - that the interests of the natives are not only adequately safeguarded, but are also symbolised in the very structure of the administration itself.

The Governor, I feel, does not realise the importance of making the machinery of Government such that it does not entirely depend on the personality of the Governor whether it works satisfactorily or not. Sir Joseph Byrne is a man of great energy. He is also, as he says, open to hear and receive all kinds of communications of grievances, both from his officials and outside, and takes a pride in being au fait with all that is going on in his territory. It is not impossible that what he proposes might work under the driving power and influence which I have no doubt he will show, though I fear that it would not be possible, even for him, to cover anything like the ground that would be

necessary

necessary to see that this machinery did not turn out the wrong product. Obviously, with a less energetic and interested Governor, many things might happen in the Provinces, the knowledge of which would trickle very slowly, if at all, to Government House. The Native Advisory Committee which he has set up is quite a good new departure, which, however, was anticipated in the consideration of the increased powers of the Chief Native Commissioner. It was suggested that he himself should be the Chairman, though it would be quite a wise arrangement, I think, to make the Governor the Chairman, as he now is, with the Chief Native Commissioner Deputy Chairman.

I am all in favour of the Chief Native Commissioner travelling more frequently in the reserves, and settling minor problems on the spot. At the same time, the place where the damage to native interests is most likely to be done is in the Legislative Council, the Estimates Committee, and the headquarters of Government. It is essential that he should devote a considerable part of his time to considerations of broad policy affecting all the natives in all the Provinces, and these, as I have said often originate, and are certainly decided, centrally, and not

provincially.

provincially.

I am quite certain that what the Governor visualises is not the white settlers' scheme, though it takes the same form, but rather he thinks of himself as the Chief Native Commissioner, and is satisfied that if the Provinces are efficiently run with able men who have a fairly free hand, he himself will be able to see that what is done centrally will be in line with what I have no doubt are his excellent intentions. He proposes to use the Chief Native Commissioner to supplement his own limited opportunities of visiting Reserves etc., and that, acting on the information which this officer gives him, he will be more able to come to proper decisions. The officer is not really a Chief Native Commissioner at all, but an investigation officer who will keep the Governor supplied with up-to-date information. This is emphasised by the fact that he has to be paid on the same scale as Senior Provincial Commissioners, and is, in fact, to be a Senior Provincial Commissioner delegated for special duties to the Governor. In the euphemistic phrase of the Governor's, he should "as far as possible, be relieved from routine office and from executive work beyond certain duties which now devolve upon him by statute. Such work should be dealt with in a branch of the Secretariat under the Colonial Secretary". The duties which devolve upon

him.

him by statute would consist in signing his name to certain documents drawn up in the Secretariat on instructions of the Colonial Secretary.

As I say, I believe that with the outlook and energy of the present Governor, the actual machinery of native affairs is not so important as it would be with a Governor of a more ordinary type, but we are trying to set up machinery of Government to safeguard native interests, which will not be so dependent on the personal element as this proposed scheme of the Governor's. We have also, as I have pointed out, to propose something which will be recognised as a proper and efficient substitute for the separate budgets and administrations of Lord Lugard's scheme. I am quite satisfied that any acceptance of proposals such as the Governor's will not only be against what will probably be recommended by the Joint Committee, but would be regarded everywhere as a surrender of our trust, and as a failure to provide in the machinery of Government an officer with the power and the duty of seeing that the responsibilities of our trusteeship are kept prominently before the Governor and the Secretary of State.

I would suggest therefore that the Governor be informed that the Secretary

of

of State is afraid that his proposals will not meet the situation which has arisen, particularly in connection with the meetings of the Joint Committee, and that he would prefer to await their recommendations before coming to a final conclusion on this matter. If the Governor thinks that an acting appointment is necessary, he might, in addition to the two names he has submitted, consider (if the appointment is to be confined to Kenya) the claims of Mr. La Fontaine, of whom the Secretary of State has very good reports. He is said to be both capable and sympathetic. He has knowledge of the vernaculars apart from Linga Franca, and is said to have sympathy with the younger element, which is desirable.

If, on the other hand, we accept the Governor's hint, and go outside in the meantime, we should consider Mr. Mitchell of Tanganyika. He is the type of man whom I would like to see Chief Native Commissioner in Kenya, but I recognise that there might be feeling in the Kenya Service over such an appointment. Mr. Wade I am not keen on, but I would regard Mr. La Fontaine as a good acting appointment.

I think this is all that we can do in the meantime, as we do not wish to do something now which the Joint Committee's recommendations might compel us within a few months to alter, involving an important rearrangement of machinery.

120
T.D.S.
15.7.31

SA [unclear] [unclear]
6 To go to No. 234 Conf 1 Aug '31
To go to P. & Personal 1 Aug '31

DESTROYED UNDER STATUTE

See minutes in No. 5A.
Dy. letter [unclear]
for [unclear]

All [unclear]
[unclear]

1/2 To Sir J. Byrne - S.O. - 14 Aug
(No. 5 [unclear])
8 letter for S.O. letter from Sir J. Byrne to
the [unclear] dated 15 June 1931

1 extract from S.O. letter to Sir J. Byrne in
reply to No. 8, dated 10 July 1931

signed in accordance with minute
1/9/31 or 14/8/31

Thoin
21/8/31

to be discussed with
[unclear]

Thoin
26/8/31

Mr Moore saw Sir S. Wilson
today

W. Allen
26/8/31

see also [unclear] [unclear] [unclear]
[unclear] [unclear] [unclear]

W. Allen
Ref from minute of 2/8/31
17/8/31 and Col. Watkins file herewith
please. (17/8/31 has been circulating
with the [unclear] and has been returned to
[unclear] within the last 3 days.)
W. Allen 22/8/31

10. Extract from Sir J. Byrne's letter to
Sir S. Wilson - Personal Conf - 11/1/31
No. 11

I attach a memorandum as regards
the paragraph marked in red in the accompanying
extract from Sir J. Byrne's letter to Sir S. Wilson of
the 11th November, 1931. The main point is the question
of postponing further the filling of the vacancy of
Chief Native Commissioner. I presume that will be
agreed to in the circumstances. I have, however,
ventured to deal in the memorandum with a further point
arising out of the departmental conference regarding
native affairs, which the Governor calls together
frequently, as explained in his letter to Lord Passfield
of the 9th June. I have ventured, for consideration,
to crystallise my ideas into the form of a letter from
Sir S. Wilson to Sir J. Byrne. Personally, I think the
question which I have raised is worth exploring, but I
realise that there is room for an opposite opinion.

(10)

(5 on file)

W. Allen
17/12/31

I have studied the last page of the [unclear]
with very great respect to his leave
I think that things have not gone so
far on Kenya that a purely official
committee is impossible.
W. Allen 17/12/31

Sir R. Hamilton

I am a little bit doubtful
about writing as a draft,
because I think you take the
view that the small Committee
if they would not satisfy the
Joint Committee.

R.H.

31.12.31

The views of Sir J. Byrne and of
the Joint Comtee are fundamentally opposed
& until the position of the C.N.C. is
settled it would, I think, be unwise
to appear to countenance the placing of
the restrictions of a small committee
upon his actions. Personally I am
in entire agreement with the views of
the Joint Comtee (per 87) & therefore wd
not write as in draft.

R.H.

1.1.32

Copy of report here
of 10.1.32
for C.N.C. & J.C. & J.C.
C.N.C. returns to Paris
20.1.32 (P. 8)

Return to Sir J. Byrne

Sir S. Wilson

Do you mind after discussion
writing a letter to Sir J. Byrne
about the Committee, or it will
be better to write
to Sir J. Byrne

12/1/32

Sir R. Hamilton

Do you think the revised
draft will do? If so will you
please mark up to Sec of State as
I think he should see

R.H.

11.1.32

Sec of State

I have suggested an amended version
in the revised draft which I think you
should see. If you approve the latter
might

R.H.

15.1.32

R.H.

16/1/32

Extract from East Africa

Matters of Moment.

28 March 1951

A thoroughly bad appointment.

In a recent issue East Africa disclosed the serious likelihood that an official whose public statements have already aroused the anger of East African unofficial opinion may be transferred to Kenya as Chief Native Commissioner. We return to the subject because our information received from usually very well-informed quarters has in the past few days been confirmed from another source. Being anxious to avoid publication of details which might tend to entrench authority in its determination, we have named no names, and hope that it will not be necessary to do so; but we suggest with all the force of our command that persistence in the present ill-advised design would arouse widespread indignation in the Colony and result in the new holder of the office starting his difficult task in an atmosphere of angry controversy. We believe the settler community desires to give a sincere welcome to any new Chief Native Commissioner who may be appointed, provided only that his record justifies the confidence that he will enter upon his duties with an impartial mind. It cannot however, be expected that the non-official European public will lay itself out to co-operate with an individual whose admitted ability and adaptability are more than neutralised by publicly declared opinions which are resented by every settler who has discussed them with us. If, as we believe to be the case, the Secretary of State for the Colonies and the Governor of Kenya are anxious for closer co-operation in the Colony between the Governor

Governor and the governed, this appointment will even now be countermanded. We plead that that should be done in the general interest - and as the man designated for the post is understood to have recorded his desire to escape the duty if possible, such reconsideration could take place without disappointing his personal hopes. We can think of few appointments more clearly calculated to enrage Kenya, which would construe it as a deliberate challenge.

x

x

x

12
16
"East Africa"

4th February, 1932

All of the elected members of the Kenya Legislative Council have recommended that the post of Chief Native Commissioner should be filled by local appointment, if filled at all, and with that recommendation Canon Burns, the nominated member representing Native interests, has associated himself. If that appointment is to be raised to anything like the dignity envisaged by the Joint Parliamentary Committee on Closer Union, it will require to be entrusted to a strong man, broad and independent of view, who has considerable experience in both Native and European settled districts. It is not easy to think of absolutely suitable candidates for so onerous and delicate a task, and we do not here propose to canvass the qualifications of individuals who might be considered for the vacancy. We are, however, staggered at one name which is being discussed in certain official quarters, and we sincerely hope that there is not a particle of truth behind the current assertion that a certain person is to be transferred from another East African territory to Kenya in April to fill the vacancy. His appointment would be regarded in Kenya as a declaration of war on white settlement, for he is so deeply committed to a policy which would be anathema to Kenya's non-official European residents that they would inevitably construe his intrusion as a challenge. There is already more than enough difference of opinion between officials and non-officials in the Colony, and to aggravate that irritation in such a manner would do an immense amount of harm. To us the proposal is incredible, but it is being treated seriously by some people who are usually well informed. We trust that there is no foundation for the rumour which causes their very natural anxiety.

Extract from a letter from Sir Joseph A. Burns to
Sir Samuel Wilson, dated 9th February, 1932.

XXXX

XXXX

XXXX

Now turning to your letter of the 18th January, I am glad that the Secretary of State agrees to leave the Chief Native Commissionership vacant for the present. I still strongly recommend Wade, but of course he clearly understands that he has no vested interest whatever.

As regards my Native Affairs consulting "body", I wonder if I have not stupidly given you a wrong impression of its functions? In the first place it deals only with development in the Native Reserves. I found that this very important work was being carried out piecemeal, there being no proper co-ordination between the Medical, Veterinary, Agricultural and Educational Departments. There was no combined propaganda. Our meetings have remedied all this, and we are all working as a team determined to push on unitedly with this, which I consider is one of the most important means of increasing our wealth and prosperity. No one has recognised its value more than the Chief Native Commissioner and his department, and I'm sure he would be deeply disappointed if we were compelled to abandon these meetings.

I am sorry to inflict this long letter upon you in the midst of all your other worries, but it is essential that you should be kept up to date in regard to Kenya news.

Revised 11/18

Q. D.

For Sir Saffilson's signature.

Mr. Allen 17/12.

DOWNING STREET

December, 1931.

Mr. Tomlinson

PERSONAL AND CONFIDENTIAL

Sir O. Bottomley 17.12.31

Sir J. Shuckburgh

Sir G. Grindle

X Permt. U.S. S.H.W. *14.1.32*

X Party U.S. of S. *30.12.31*

X Secretary of State *15.1.32*

In your letter to me of the

11th November, you asked that the filling

of the vacancy of Chief Native Commissioner

which had been suspended pending the

report of the Joint Select Committee may

be further postponed until the possible re-

organisation of the provincial system and

the linked question of the re-organisation

of the Secretariat had been further

examined. The Secretary of State is quite

willing to agree to leave the vacancy open

for some time longer. An additional reason

for doing so is the fact that the status

of the office has yet to be settled. This

is referred to in the confidential

despatch to you regarding the report of

the Committee generally. On the other

hand,

DRAFT

SIR JOSEPH STONE, K.C.M.G.,
K.B.E., C.B.

*Please type as
attached*

hand, as the Chief Native Commissioner.

(substantive or acting) will be intimately mixed up with the proposed Land Enquiry, it may not be desirable to postpone the matter very long. I am glad to see that Wade is doing so well in the acting appointment, but I think I must enter a word of caution here. There is always the risk that an acting man, the longer he goes on, will acquire something in the nature of a vested interest, but in this case, of course, the Secretary of State must leave his hands entirely free, and we can, of course, rely on you to

~~ensure that no such risk arises in the present~~

*you may be sure that
of course his experience & record will be fully
considered & his experience & record will be taken fully
into account.*

As I am writing, there is one further relevant point to which I would like to refer, and that arises out of your personal and confidential letter to Lord Passfield, of the 9th June, in which you mentioned that you had arranged to call together at frequent intervals,

hand, as the Chief Native Commissioner

(substantive or acting) will be intimately mixed up with the proposed Land Enquiry, it may not be desirable to postpone the matter very long. I am glad to see that Wade is doing so well in the acting appointment,

but I think I must enter a word of caution here. There is always the risk that an acting man, the longer he goes on, will acquire something in the nature of a vested interest, but in this case, of course, the Secretary of State must leave his hands entirely

free, and we can, of course, rely on you to

~~ensure that no such risk is run in the present~~

you may be sure that
~~of course~~ *of course* ~~Wade's~~ *Wade's* claims will be fully considered, *with his experience & regard will be given due weight*

As I am writing, there is one further

relevant point to which I would like to refer,

and that arises out of your personal and

confidential letter to Lord Passfield of the

9th June, in which you mentioned that you

had arranged to call together at frequent

intervals,

intervals, a body which, although it has no official title, is, in effect, a native affairs committee. That body, of which you yourself are Chairman, consists of the Colonial Secretary and Chief Native Commissioner, together with certain Heads of Departments. In ordinary circumstances I think that such a committee would be of great value, and quite unobjectionable so far, at all events, ^{as} the first three ^{names} are concerned - the more consultation there is between you, the better.

new to the end

such that it must be shown that freedom of action;

But the circumstances are ~~abnormal, and we have to convince people~~ ^{will} that the Chief Native Commissioner has in fact ~~the free hand~~ which the Joint Committee have postulated for him. From that point of view, a committee ~~may~~ carry a suggestion of ~~control~~, and that should be avoided. Therefore, I think that, at all events with the appointment of

restricted activities I am afraid, & divided responsibility

of

of a new Chief Native Commissioner,

if not before, your Committee will

Mark to be discussed. may have to

go by the board.

N.O.T.E.

The extract pertinent to this paper is that marked in red, and the point is that the Governor asks that no steps may be taken to fill the vacant post of Chief Native Commissioner until the Committee, which is enquiring into the provincial system, has submitted its recommendations, but Sir J. Byrne also points out that the question of the re-organisation of the Secretariat is linked up with this. The late Secretary of State had decided that no action to fill the vacancy should be taken until the Committee had reported. As we know Sir J. Byrne is strongly inclined to recommend Mr. Wade for this post, but I think there is little doubt of such an appointment leading to criticism in certain quarters, and it is obviously desirable that Mr. Wade should not acquire anything in the nature of a vested interest, which is always the risk where an acting arrangement is very prolonged. If therefore it is agreed, as I assume it will be, that the filling of the appointment should be suspended for the present, I think some caveat to the above effect should be entered. An additional reason for delaying selection is the fact that the status of the office has yet to be settled (this is referred to later below). On the other hand, if the Chief Native Commissioner is to be a member of the proposed Land Committee, undue delay in filling the post is to be deprecated. This ~~is~~ ^{is} the ~~Land Committee~~ ^{Land Committee} ~~are~~ ^{is} also being dealt with on separate papers.

There is one point in regard to the status of the Chief Native Commissioner which it seems desirable to mention here. It will be remembered that the general confidential despatch on the Report of the Committee suggested that a solution of this question might

lie in a definite arrangement that while the views and proposals of the Chief Native Commissioner should, as at present, be submitted to the Governor through the Colonial Secretary (who would naturally have a close interest in many of them) this opinion should not be disregarded nor his proposals overruled until he has had an opportunity of personal discussion with the Governor, in which case it would be advisable that the arrangement should be committed to writing. The views which the Governor held some months ago are expressed in his private and confidential letter to Lord Passfield of the 9th June. In that he referred to the fact that in addition to his normal Monday Conferences with Heads of Departments, he had arranged for another body to be called in at frequent intervals to consider and advise on the Native Affairs. Although this had no official basis, it is in effect a native affairs committee. It consists of the Governor, as Chairman, and as members, the Colonial Secretary, Chief Native Commissioner, the Director of Agriculture, Chief Veterinary Officer, Director of Education, Director of Medical and Sanitary Service, and the Director of Public Works. It is possible that in dealing with the question of the status of the Chief Native Commissioner the Governor will refer to this body, which I think might usefully be given prominence in that connection. The matter cropped up in conversation with Mr. Moore, and he pointed out that the difficulty of treating this as a public committee was that in that case the unofficials would claim to be represented.

165

represented on it, which obviously it is intended as a purely administrative committee. Therefore if any special prominence is given to it, it should presumably be described rather as a departmental conference than a committee. There is, however, one modification that I have had in mind for some time, and which perhaps might be explored. It is this, that in order to mark the special position of native affairs and the Chief Native Commissioner, the actual membership of this departmental conference might be limited to the Governor, the Colonial Secretary and the Chief Native Commissioner, the other members referred to being co-opted or summoned as required. This ~~will be~~^{may} be window dressing, but I am inclined to think it would be useful window dressing, and that it might be put to the Governor, though, of course, in a very tentative way.

JH Miller
 1/12

Journal confidential

EXTRACT from a letter from Sir Joseph A. Byrne to Sir S. Wilson, dated 11th November, 1931.

X X X X X X

As you are aware, the 1932 Budget is a makeshift and an emergency Budget. As soon as possible after the New Year we must try and get the financial position examined and put on a sounder basis in time for the preparation of the 1933 Estimates. I want now to drop my request for a Financial Expert and to ask H.M. Government to implement without delay the recommendation made by the Joint Committee ¹⁰⁸¹¹⁷ of their report. With reference to paragraph in paragraph 87 of the report, please do what you can to prevent too hasty action. In this connection I would refer you to my personal letter to Lord Passfield dated the 9th June and to his reply dated the 14th August.

There was a Committee in being when I came here appointed to examine the provincial system with a view to seeing whether greater decentralisation with fewer Provinces would not lead to efficiency. Linked up with this is the re-organization of the Secretariat which will have considerable bearing on the administration of Native Affairs. Moore was Chairman of this Committee but we found that it was useless to proceed with the investigation until the Closer Union Report was published. As soon as Moore returns I want to re-assemble the Committee with the instruction that they should submit their recommendations with the least possible delay. For the time being therefore would you please leave me alone and not send me a "fundi" from Fiji or Tanganyika. Native affairs in this Territory are very complicated and it would take a new man a year or two to get even a slight grasp of the problems. Wade is doing admirably and can

safely

17/11/31

Handwritten notes:
 H. C. P.
 Mr. P. H. G.
 Mr. W. H. G.
 Mr. W. H. G.
 Mr. W. H. G.

safely be allowed to act, at least until the position becomes clearer.

I should be very grateful if the "Powers that be" would have a talk with Moore before he leaves about the recommendation made in paragraph 105(ii) of the Joint Committee Report. I have no doubt whatever that an investigation of this nature is absolutely necessary, and I have also no doubt that it will raise a storm here. The initiative must therefore come from H.M. Government, based on the recommendation of the Committee. A strong and independent Chairman will be required and an endeavour must then be made to remove once and for all the many anomalies and injustices which are a constant irritant to good relationship between some of the native tribes and the Government.

X I I I I I

*Extract
Newspaper
no. 17312*

9

Extract from a semi-official letter from Sir J. Byrne
to Sir C. Bottomley dated 15.8.31

X

X

X

I wrote a personal letter to Lord Passfield about
the Chief Native Commissionerhip. What we really want is
not an office wallah, but a man who will be able to devote
his time to pushing on development in the Reserves for these
are going to be the salvation of the country. Unless you
have a first class man in mind, let me have water. He has
practical knowledge of our natives and their customs and he is
firm but very tactful. Even Lord Selkirk came to me
yesterday and informed me that he would be very pleased if
he were appointed. Watkins would never do; he would be a
second Maxwell who was very tiresome at the end.

X

X

X

1/18/31
268
Extract from a semi-official letter from Sir C. Bottomley
to Sir J. Byrne, dated 10.7.31.

X X X X X X

We have noted what you say about the Chief Native Commission-
ership, and the post is now under the consideration of the
Secretary of State. I am personally rather sorry that Watkins
is out of the running as all my recollections of him have been
very pleasant, but apart from anything else he is, of course,
rather old now for the post.

X X X X

C. O.

Mr. *Adm 8/8/31*

X.17180/51, Kenya

Mr.

Quarto for S. of S's signature.

~~Mr. Tomlinson~~

X Sir C. Bottomley *11.8*

Personal and confidential

Sir J. Shuckburgh

Sir G. Grindal

Permt. U.S. *11.8*

Party U.S. of S.

+ Secretary of State *13/51*

DRAFT, Conson.

DOWNING STREET,

HIS EXCELLENCY

11.2 August, 1931.

BRIGADIER GENERAL

SIR JOSEPH A. BYRNE, K.C.M.G.,
K.B.E., C.B.

Dear Sir Joseph Byrne

I sent you a private telegram on the 1st August, (saying that I would write personally about the Chief Native Commissioner.

In my official telegram of the same date I merely informed you that I had decided that no substantive appointment to the post should be made until the report of the Parliamentary Committee is available, probably in November. My reason for this decision is that it seems (now) clear that the Committee will take the

line in regard to Kenya that either there must be some measure of separation between the settled and the native areas in Kenya or alternatively that the Chief Native Commissioner should have an enhanced position as suggested in my letter of the 21st May.

I cannot of course, say what exactly will be the form of their recommendation, but that will, I think, be the substance.

In the circumstances it would be most undesirable to make an appointment now on conditions which might have to be materially altered in a few months time, and I think the only thing to do ^{is} to carry on with ~~one~~ ^{an} acting appointment until the report of the Committee is published and we can consider action upon it.

I may say that I welcome the arrangement which you have made for what is in effect, an official Native Affairs Committee over which you yourself preside, and



I see your point about decentralisation. But I am afraid that, in the special circumstances of Kenya we shall have to do more. I may have an opportunity of discussing the matter with Mr. Moore, if this is one of the subjects on which you have asked him to convey your views when he comes home later this month. ~~I am sure I will not be late in replying now.~~
~~an attempt to discuss the matter with Mr. Moore.~~
~~to discuss the Committee's recommendations.~~

I have taken no steps yet to select anyone for the post, as I must know first what the status and duties will be. As regards the acting appointment, I leave that to your discretion, and if you are satisfied with Wade, I do not wish to suggest any change, but he will of course understand that the period of acting does not give him claim to the substantive appointment when it has to be made.

This I understood from the copy which I had written to the said Mr. Wade. Yours truly

Yours very truly,
 (Signed) PARRFIELD.

O. O.

Mr. [unclear]

Mr. [unclear]
Mr. [unclear]

Sir C. Balfour
Sir J. Shackleton
Sir G. Grindal
Permt. U.S. of S.
Parly. U.S. of S.
Secretary of State



Eded
12.15 pm
1.8.31
EJ

2/12

No 234 conf. very tall
No 163 you conf.

DRAFT
[64]
[1022124]
[unclear]

Sept. No. 87 of
13 June I have
decided that no
substantive appoint-
ment to post of
Chief Native
Commissioner should
be made until
report of Parliamentary
Ctee is available

Pat copy 1935

Recie to me
for Mr. [unclear]
[unclear]

Probably in
November

Secy

5A

Sir S. Wilson,

You told me the Secretary of State wished to know what Mr. Parkinson and I wanted in regard to the post of Chief Native Commissioner in Kenya.

I consulted Mr. Parkinson and I find that what follows represents his views as well as mine, but I hope that there may be time for him to annotate it.

If it were practicable, we should like it to be recognised that the Governor is emphatically the Chief Native Commissioner and that any officer holding that post must be responsible to him and under his ^{direction} regulations.

The question how with such an arrangement the Secretary of State should make sure that he knows the inside of the Chief Native Commissioner's mind on matters of policy is an important one, ^{but} it can easily be arranged.

Any arrangement under which the Chief Native Commissioner has an entirely independent position must break down. In particular, if the Secretary of State has himself selected a man as Governor of Kenya he will not readily refuse his support to that Governor, and unless we are to have a London Council or a Committee of the House of Commons to control the Secretary of State, there will be no security for the imagined independence of the Chief Native Commissioner.

The

The C-in-C must give up every possible moment of his time to travelling through the Provinces, meeting Provincial and District Commissioners and, on occasion, give instructions to them on behalf of the Governor. He should be relieved as much as possible of work at Headquarters and, although a member of both Councils of Government, should be represented there except on special occasions, by his Deputy. ^{The Deputy} He would also act as Establishment Officer for the District Staff in conjunction with the Secretariat, and relieve the C-in-C as far as possible of details of postings.

On the other hand, the Chief Native Commissioner would be an important member of the Native Land Trust Board or any Native Affairs Committee that might be set up and would not, except when on leave or for very special reasons, be represented by his Deputy.

In his relations with the Colonial Secretary the C-in-C would rank as Head of a Department except for any special arrangement for sending his reports to the Secretary of State as a matter of course. He would not, like the Secretary for Native Affairs, Tanganyika, be a member of the Secretariat Staff under the Colonial Secretary, but the Colonial Secretary would know exactly what was going on, and would maintain ^{the Governor would} not be precluded from consulting him in any ~~his position as Adviser to the Governor on Native~~ ^{Subject} Affairs, as on every other subject.

We do not think that this is impracticable; ^{it is practically the Governor's own personal}

But we do feel that the general position has reached a stage when the discussion is a little unreal, and that no progress can be made until the Joint Committee have reported. Certain members have taken the definite position that if Native Administration is not to be ^{separated} supported altogether, the Chief Native Commissioner must be independent of the Governor, and until this is settled one way or the other we are at a standstill. It would be desirable to let the Governor know of this by telegram as soon as possible.

May I add with regard to Dr. Shiela's minute that unless the Governor makes a definite recommendation it is not ~~not~~ desirable to alter the Acting arrangements which are now in force. Acting appointments have always been left to the Governor and while Mr. Wade may not be the ideal man as substantive Chief Native Commissioner, there seems no reason to turn him out of the Acting appointment until the nature of the post has been settled.

W.C.H.
20.7.31

Dear Mr. Bottomley,
I spoke to Sec of State today about this (his lecture was the discussing another matter) I think we must defer a decision on this until we have seen the

Yes, they have become
quite clear in the
past week or so
add

x This is putting it
rather too strongly,
I think. I think we
want virtually
independent
and possibly separate
which is in
although not stated
quite so boldly
add

has reported in the meantime
his lands will presumably
continue to act.

J.H.6
at end

30.9.31

Letter has been sent to S. J. Byrne
explaining

with 7/1

W. J. H. G. P.

PERSONAL AND CONFIDENTIAL

17/6/31

33
5

GOVERNMENT HOUSE,
KENYA,
EAST AFRICA



RECEIVED
26 JUN 1931
COL. OFFICE

25th June, 1931.

No 2

Dear Lord Passfield,

I have given careful consideration to the matter raised in your letter of the 26th May, which arrived a few days ago. the following are my views.

At the start may I say that the actual position of the Governor here does not seem to be properly appreciated. He appears to be regarded as a person rather aloof and approached with difficulty. The real fact is that the Governor is in constant personal touch with his Heads of Departments and, as far as I am concerned, I always welcome them when they come to talk over their departmental affairs with me. Every Monday I have a conference with all these officers when we discuss matters generally with a view to securing complete co-operation.

I soon realised, however, that that was not sufficient and that something further was required to put some drive into the development of the Native Reserves and to consider general administrative and other questions affecting the welfare of the natives. I therefore arranged for another body to be called together at frequent intervals to consider and advise on this very important subject. Although this body has no official title it is, in effect, a native affairs.....

Handwritten notes on the left margin: "must see 1/8/31", "S.P. 14/1/31", "H.M."

affairs committee: it consists of myself as Chairman, and as members, the Colonial Secretary, the Chief Native Commissioner, the Director of Agriculture, the Chief Veterinary Officer, the Director of Education, the Director of Medical and Sanitary Services and the Director of Public Works.

Now to make effective the decisions arrived at after such consultations and to provide a watchdog in regard to native interests generally something more is desirable. The Governor should therefore have at hand, in close personal touch with him, an experienced and sympathetic official the greater part of whose time should be spent in visiting the Reserves and other areas where natives are congregated (for here some of the most difficult problems will arise). During these visits this officer should see that the native policy laid down by the Government is being carried out mainly by meeting, advising and helping the various officers on duty in the areas concerned. On his return to Headquarters he should invariably see and report to the Governor (with the Colonial Secretary present) who would, through the Colonial Secretary, take such action as he thought fit. In addition, this officer would advise the Governor on all major questions affecting native welfare, including expenditure on native services in the Reserves. It is immaterial whether you call him 'Chief Native Commissioner' or....

or 'Secretary for Native Affairs' but I should let him remain a member both of Executive Council and Legislative Council. He should rank as a Provincial Commissioner and (unless appointed under special conditions from outside the Colony) be interchangeable with those officers, his actual seniority being governed by his precedence as a member of Executive Council. I recommend that he be granted the same salary as the Secretaries of Native Affairs in Nigeria and Tanganyika Territory and as the Senior Provincial Commissioners here, namely, £1850 a year, to this should be added £100 Personal Allowance, payable whilst he holds the post.

Now there is no denying the fact that the real practical work of looking after the natives falls upon the Provincial Commissioners, the District Commissioners and Departmental officers serving in the various areas. Success or failure depends on them, provided the main policy laid down by the Government is sound.

This being so I am all in favour of the Provincial Commissioners being given more authority, with executive power over Departmental Officers, except in regard to technical matters which should be directed by the Head of the Department.....

Department: a Committee is now sitting to examine and report on this question.

Such decentralisation should relieve the already over worked Secretariat and should tend to lessen the interminable delays which now take place owing to reference to Headquarters being necessary. There should also arise a healthy rivalry between Provinces, especially in regard to such important matters as medical, agricultural and veterinary services and as regards the organised marketing of produce.

The Governor will be informed personally as to the progress that is being made in these matters on the return of the Chief Native Commissioner from his tours and he can then assemble the Native Affairs Committee and, after discussion, issue through the Colonial Secretary such orders as may be warranted.

To make the scheme I have just outlined a success the Chief Native Commissioner should, as far as possible, be relieved from routine office and from "executive" work beyond certain duties which now devolve upon him by statute. Such work should be dealt with in a branch of the Secretariat (augmented by as many of the present Native Affairs Staff as may be required) under the Colonial Secretary, who would naturally...

GOVERNMENT HOUSE,
KENYA

EAST AFRICA

5.

naturally take the advice and be constantly in touch with the Chief Native Commissioner.

A

Frankly, I am strongly opposed to the proposal that if in any matter the view of the Chief Native Commissioner is not acceptable to the Government the Governor shall advise the Secretary of State and forward statements. This is neither fair to the Governor nor to the Chief Native Commissioner, and in practice would create endless difficulties. Surely the Governor can be trusted to use his discretion in such matters and to inform the Secretary of State if in any important matter the Chief Native Commissioner finds himself opposed to the decision arrived at by the Governor. It is possible that this idea is the result of what took place during the last few years of Mr. Maxwell's office, but I imagine that during this time he was suffering under what he considered was a grievance which made him none too helpful a colleague. As regards the selection of an officer to fill the post, there are two here who merit consideration, namely, Colonel Watkins and Mr. Wade.

Colonel Watkins is an earnest, knowledgeable and hardworking officer, but he is a bit of a crank and I do not think the work would run smoothly under him. Mr. Wade is very...

GOVERNMENT HOUSE
KENYA,
EAST AFRICA

8.

very capable and tactful and had he more seniority and experience in handling native affairs in Council I would have no hesitation in recommending him for the post. Perhaps the best solution - one which would have the advantage of providing a break in the old tradition obtaining here - would be to appoint for a limited period a selected man from outside and at the end of this period to consider the position afresh.

Yours very truly,

The Right Honourable Lord Passfield, P.C.
Secretary of State for the Colonies.
The Colonial Office,
London, S.W.1.

Mr. S. Johnson

Mr. B.G. also told me that a committee has written letters to discuss the future of the C.A.C.

67

I am not blown out to see my name on 2153. I feel very much as if the consideration has been hampered by the number of bills considered.

I think Mr. Byrnes ought to be told by the Joint Committee. I would be glad if its conclusions could be delayed until the question is one which must be considered here for the long term of general policy. I have the impression that it will be best to have the Government's own views, with any indications which they may have as to their position.

Wed 11.5.31

Yes, telegraph to Mr. Byrnes

P.H.C. 19.5.31

done

~~S. Johnson~~

G.O.

240

Mr. Purkinson 14.5.31

17188/31

For all mail
22 May

Mr.
Mr.
Mr. [unclear]

Sir C. Doughty 20.5.31

17188/31

Copy for the Secretary of State's signature

Sir J. Shackleton

Downing Street,

Sir G. Grigg

Personal and Confidential

Parly. U.S. of S. 20.5.31

Parly. U.S. of S. 20.5.31 (See marginal notes)

21 May 1931

Secretary of State

in concern
21/5

Dear Sir Joseph Byrne,

DRAFT

An official telegram has

HIS EXCELLENCY,
BRIGADIER GENERAL,
SIR JOSEPH BYRNE, K.C.M.G.,
K.B.E., C.B.

recently been sent to you informing you that ^MMaxwell is retiring at the end of his leave, that is to say, early in July.

[Sent on Maxwell's file 17188/31]

I have also sent you a private and personal telegram asking you not to take any action in regard to the vacancy which will thus be caused, until you have heard from me.

[Do not send]

As you know, I have for some time

been much exercised in my mind about native affairs in Kenya. The Memorandum

on Native Policy which was issued last year lays down the general lines to be

followed, but the difficulty arises as usual in the application of a good deal of what ~~is~~ ^{is reported} in this country may

Memorandum
Case 1, as advised to Maxwell
(with impersonal note)

2 drafts.

with the principles but
is there

be

C.O.

*For all mail
22 May*

Mr. PARKINSON 19.5.31

17188/31

Mr.
Mr.

Sir C. Bottomley 20.5.31

Sir J. Shackleton

Sir G. Grindle

404, for the Secretary of State's signature.

Downing Street,

21 May, 1931

Permt U.S. of S. 20.5.31

Permt U.S. of S. 20.5.31 (See marginal notes)

Secretary of State

Personal and Confidential

*in confrm
24/5*

DRAFT.

Dear Sir Joseph Byrne,

An official telegram has

recently been sent to you informing you that Maxwell is retiring at the end of his leave, that is to say, early in July.

I have also sent you a private and personal telegram asking you not to take any action in regard to the vacancy which will thus be caused, until you have heard from me.

As you know, I have for some time been much exercised in my mind about native affairs in Kenya.

The Memorandum on Native Policy which was issued last year lays down the general lines to be followed, but the difficulty arises as usual in the application of a good deal of what is reported in this country may

HIS EXCELLENCY,
BRIGADIER GENERAL,
SIR JOSEPH BYRNE, K.C., C.G.,
K.B.E., C.B.

*[Sent to Maxwell
file 19.5.31]*

[See minute]

*Memorandum
(No 1 as altered to meet
if sent impersonal)
24/5*

12 drafts

*Not in the principles but
in their*

be exaggerated, and, unfortunately, Kenya
is far too much in the limelight, but it
is difficult to resist the conclusion
that in the past the natives have not had
altogether a fair deal. Apart from what
the Kenya native witnesses themselves said
to the Joint Select Committee on East

Africa and in their interview with myself, —
~~as to which~~ I have already sent you (an
a record of the interview)
official despatch / one of the most remarkable
things in the evidence of the Uganda and
the Tanganyika natives before the Committee

was the unanimity with which they expressed
their aversion from ~~being linked up with Kenya~~
being linked up with Kenya.

~~It is not~~
of course,
the fault of any one person, that things

have not gone as well in Kenya as in the
neighbouring territories; ~~but it is~~ unnecessary

now to look to the past; ~~and~~ what matters

(New page)
is the future. // With Cassell's retirement,

we have an opportunity to begin afresh. I

have had a memorandum prepared ~~which~~

of which I enclose a copy, ~~and~~
setting out

Sir Robert Hamilton, will press very strongly
the Committee for a separation of the
native areas in Kenya from the non-native
areas. This is the kind of scheme which
Mr. Table has for some time been advocating,
and Mr. Maxwell also has urged it before the C.O.A.
in East Africa and here. In the
Colonial Office, we all dislike this proposal.
It is, I think, unsound in principle;
~~and even if a~~ and even if a
division of the Colony could be
made on the ground, it seems to me that there
are numerous difficulties, constitutional,
financial and economic, involved in such a
proposal. Outside, there will be outside
difficulties, as well as inside, a body of
opinion in favour of it, and the only effective
means which I can see of resisting the
proposal is by giving the Chief Native
Commissioner as strong a position that no-one
would be able to suggest that the interests
of the natives in Kenya are not being properly
watched and protected.

It may be said that if a
High

High Commissioner were to be appointed, ~~as~~
~~proposed in the memorandum~~, who
would act as Chief Adviser to the Secretary
of State on Native Affairs, there is no
special reason for enhancing the position
of the Chief Native Commissioner in Kenya.
Having regard to the trend of opinion in
the Committee I do not think that you will
recommend the appointment of a High
Commissioner at all. This, of course, is
Naturally, I cannot be certain yet but
for your own information only
I feel sure enough to ask you
to examine the position
of the Chief Native Commissioner
on the assumption that the constitutional
arrangements in East Africa are
probably not likely to
be changed at present.
I should be grateful if you will
let me know as soon as you can what you
think generally on this subject, and
whether you see any insuperable objection
to the arrangement proposed in the memoran-
dum. ~~which has been~~ At the same time, I
should

should like to have your ideas as to the
 salary for the post. Maxwell receives
 £1,450 a year with a personal allowance
 of £200. I see no reason why there should
 not now be a saving of this personal allowance.

but I hope that you will not suggest any
 reduction in the substantive pay, which might
 even be rounded off to £1,500, in order to
 When we have settled up the ques-
 tion of the status and pay of the post, we
 can get down to the very important question

of filling it. I will not go into this now,
 but
 as, of course, I should wish to know which
 officers already in the Kenya service you

would like to be considered, with any others

elsewhere.
 who may seem suitable from other Colonies.
 There are both advantages
 and disadvantages, which will
 seem to you, in promotion from
 within, or in bringing in someone
 from another Colony.

definite

*I am not sure about
 this. If we are to
 pay a post, it is
 difficult to pay a
 man for a number
 of responsibilities
 which we have
 the total allowance
 Maxwell receives
 which is reasonable
 that status and salary
 are closely connected.
 T.S.S.*

*I am very doubtful if
 there is a suitable man
 in Kenya. Somebody from
 outside would also start
 with a clean sheet. I
 do not think any of the
 possible officers here more
 than Swahili, which
 could be of - say - from
 T. My own fancy is
 Mitchell, and I think
 his section connects us
 somewhat to Kenya
 Africa. T.S.S. 20.7.51*

officials appointed by members of the
 Committee, but we had never before
 to consider this with the natives even in
 Swahili

I have asked you for an early reply
 as Maxwell's leave will be up early in July
 and I am anxious to avoid a long period of
 noting appointments in the post of
 Chief Native Commissioner.

Your very truly,
 (Signed) PASSFIELD

Confidential

44
/

Chief Native Commissioner, Kenya.

(1) The functions of the Chief Native Commissioner, as they were when Mr. Maxwell was appointed in 1921, are sufficiently described in this evidence before the Joint Committee:

"to supervise the whole of the native administration as an executive officer, all officers in the area being under my orders; to carry out the native policy of the Government and to supervise it; to make representations to the Governor on all matters affecting native welfare; to advise on all expenditure on native services in the reserves and to control that expenditure".

He had direct access to the Governor without going through the Colonial Secretary and his position in this respect was distinguished from that of the ordinary Head of a Department, who, although the Governor may consult him directly and should do so when occasion arises, is in ^{normal} ~~ordinary~~ circumstances confined to the channel of communication through the Colonial Secretary.

(2) The arrangement was continued from the time of the previous holder of the appointment, who was one of the most experienced and most senior officials in Kenya and held a very special position. It was dependent, as all such special arrangements are, on goodwill, but there is nothing to indicate that until the last few years Mr. Maxwell was at any disadvantage through not being consulted or not being able to make his views known to the Governor.

For

Copy to J. Ryan s/o 21 MAY 1951



*Suggest inserting
+ "should be
1955"*

(3) For whatever reason, the system was not found to work well. But the immediate reason for changing it was the importance of the "mixed" areas, in which it was desirable to unify administration and to avoid the necessity for administrative officers in charge of such areas having to report to the Chief Native Commissioner as regards natives and to the Colonial Secretary as regards non-natives. Further, it was urged that the Colonial Secretary who is in effect the Governor's Deputy, and right-hand man, must, equally with the Governor, survey the whole field of administration and assist in the necessary co-ordination. It was therefore decided that Administrative Officers should in future report on all matters to the Colonial Secretary, and that the Chief Native Commissioner should be brought into the Secretariat in order that his advice might be available on the former class of cases. Similarly, the Commissioner for Local Government, Lands and Settlement was brought into the Secretariat, in order that his advice might be available to the Colonial Secretary on ~~partly~~ *purely* non-native affairs.

(4) In effect the Chief Native Commissioner was made Secretary for Native Affairs, but the result in practice seems to have been that he has had much less opportunity of seeing the native administration at first-hand and has had less authority with the Provincial and District Officers than has Mr. Mitchell, the Secretary for Native Affairs, in Tanganyika. To what this is

attributable

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attributable it is impossible now to say, but the new system would certainly have had a better chance of success if it had not been associated with the definite derogation of Mr. Maxwell's own position and if it had been possible to start afresh with a new man.

(5) As Mr. Maxwell is not returning to Kenya a new start will be possible. In ordinary circumstances the best course would seem to be to appoint a Secretary for Native Affairs with a definitely recognised position in the Secretariat and the assurance that all matters of native import, whatever other branch of the administration might be concerned, would be referred to him. But in the special circumstances, it seems inevitable that the importance of native affairs should be signalled by some addition of dignity to the Office, and the best solution appears to be to make the Chief Native Commissioner an independent Head of Department and to lay down at the same time (1) that his duties shall be as outlined by Mr. Maxwell in the first paragraph of this note with the substitution of "Government" for "Governor" in line 6 and, (2) that if on any matter affecting ^{the} interests of the natives the Chief Native Commissioner's view is not accepted by the Government, the Governor shall advise the Secretary of State accordingly and shall forward with his own proposals such statement as the Chief Native Commissioner may wish to make.

(6)

It seems important that every important aspect of administration so far as natives are affected in any part of the Colony, should pass through the Chief Native Commissioner.

Whilst

(6) ~~Therefore~~ it is important to avoid upsetting the administration of the Provinces and Districts by going back to the ^{distinction} separation

between native and non-native areas. It must be remembered that in any circumstances the District Officer has two masters, since in his magisterial capacity he is an officer of the High Court. In this capacity the District Officer reports to the Chief Justice direct and not through the Provincial Commissioner. In his magisterial capacity, also, the Provincial Commissioner reports to the Chief Justice direct and not through the Chief Native Commissioner or Colonial Secretary.

It should be equally possible for the Provincial Commissioner in each mixed area to report to the Chief Native Commissioner in respect of native matters, and to the Colonial Secretary in respect of non-native matters, and in respect of matters affecting both natives and non-natives to make his report to the more appropriate quarter sending a copy to the other.

(7) As regards direct access to the Governor there should, in ordinary circumstances, be no difficulty in the Chief Native Commissioner having every opportunity of making his views heard.

Any Head of Department should be able to obtain an interview with the Governor, and arrangements could no doubt be made ensuring that the Colonial Secretary should have the opportunity of being present if he wished, and in the special case of

I am against this. I think the opposite is desirable. The more purely native areas we have, the fewer complications there will be, and the fewer opportunities for the clash of interests. All the information I have been able to get confirms this, and I think there is little doubt that the mixed areas were deliberately increased in number to give a plausible reason for the duality of jurisdiction. Some of jurisdiction may be necessary but the present arrangements are unnecessary. T.O.S.

The change has now made sense to go far to meet the wishes of the P.

the Chief Native Commissioner the Governor would usually take care to see the Chief Native Commissioner after every return from tour and possibly, before he went on tour.

This is important. The new Gov. did not do this in his first tour which is a mistake.
T.S.

Further, the Chief Native Commissioner ^{should} normally accompany the Governor on any tour which the Governor undertook in order that he might discuss matters with the Governor and Provincial Commissioners or District Commissioners at first hand.

So long as these points were understood from the start there seems to be no objection to the Chief Native Commissioner ranking with other Heads of Departments and ^{it is important} it may well be that other Heads of Departments including especially the Technical Departments, Education, Agricultural, Veterinary and Medical, ^{should be ready} would ~~be ready~~ to co-operate and consult with the Chief Native Commissioner in such a capacity that if he were given a position of special dignity in his relations with the Governor. It is for this reason that

I think this is doubtful, and in any case is too much of a lead.
T.S.

in making the recommendation in paragraph (5) above (I substituted "Government" for "Governor" in the statement of the Chief Native Commissioner's position and duties.

I suspect we are not quite sure that
T.S.

(8) On the other hand, if the Chief Native Commissioner were given special right of access to the Governor as something distinct from other Heads of Departments ^{it might be said that} there must inevitably be a tendency for him and the Colonial Secretary to feel that their interests are essentially different and

consequently,



consequently to pull different ways. ~~Once this feeling had arisen, it would spread through all other Departments of the Administration, and the Chief Native Commissioner, unless he were an exceptional man, would find himself left out of account.~~

Suffer only
This seems all
very special
in keeping and not
in keeping with the
present situation of a
balanced case.
T.B.S.

The solution proposed in paragraph (5) is I think the wisest. ~~attach~~ Special importance to the last part of the proposed instruction, and I cannot see if that is adopted, that there can be grounds for any suggestion in future that the Chief Native Commissioner is being muzzled or prevented from having his views fully considered by the Secretary of State.

Compare

I suggest, instead:

~~"would seem to be, perhaps, the last."~~

So send
it. P 21/5

after all, we are asking the Gov. for his opinion, and the whole memo tends to leave him no loophole to go against what the Secy of St. thinks the "wisest" plan, which has been led up to by what, I feel, is a rather one-sided argument. I personally am not convinced by it, and I think an equally good case could have been put up for greater autonomy, but I am willing to agree if such conditional phrases as I have suggested are put in, and the sections which I specially object to are modified. T.B.S. 20.5.31

I have modified the draft on the lines suggested
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