

EAST AFR PROT
UGANDA
39400

39400
R.C.
Per 4 DEC 09

Governor. No.
East Congo

1909

13 Nov

Last Previous Paper.
Govt
30/3/08
Niger

Administration of East of Uganda

Submit interim report on administration of East of Uganda. Confirms last 13 Nov & urges importance of policy, recommends thereon. Wants to see if reforms now suggested are entirely delays or latitude in their application. ~~Private note for Mr. Dombrowski containing copy to amalgamation of East Africa attached~~ See also Govt East 30/3/08
Mr Deard. 40002

East Africa to 7 June
Sept 1908

This is a very remarkable feat on the part of Sir Percy Girouard. He assumed the Government of the East Africa Protectorate only in the middle of September. Two months later he is able to send to us this enormous report on the administration and policy, not only of that Protectorate, but also of Uganda, to which he has paid a visit in person. The report bears some slight traces of haste, but not nearly so many as might have been expected. It is extremely interesting, shows great research, and will, in my opinion, be of very great value. It ~~contains~~ a prodigious piece of work when one considers that Sir Percy has had, concurrently with the preparation of it, to control the affairs, entirely new to him, of so considerable a territory. It will be the part of us here to add an element of cautious deliberation and, if necessary, of delay, which it was impossible for Sir Percy to supply if he was going to make

A. & E. W. 2000/27
25000-11-08
Next subsequent Paper

Govt Jackson
40002
31/6/09 amalgamation

make any comprehensive recommendations and suggestions so promptly.

There is one slight blot on this remarkable piece of work. The open hint at resignation in the last sentence of the covering despatch is hardly worthy of Sir Percy. It is crying out before he has even been told that he is going to be hurt. He has had no reason to believe that the Secretary of State will not give him the most cordial and thorough support, so far as he can legitimately do so. It is not necessary, however, to take the hint very seriously. It seems to me that it should be ignored in two ways. It should not be allowed to detract from the merit of this piece of work on the part of Sir Percy, and it should be regarded as nonexistent for the purposes of considering his proposals.

Before embarking on the actual proposals, another preliminary word is perhaps necessary. In East Africa Sir Percy went to a government totally different from that which he administered in Northern Nigeria. He is evidently somewhat startled and shocked by the contrast; a contrast which in reality is quite intelligible. His predecessor in Northern Nigeria, Sir F. Lugard, had a clean slate on which to write. He had the moulding of the administration and of the government policy from the very start, and he used his opportunity with excellent effect. In East Africa, on the other hand, we have had a succession of Governors who, if not actually unsatisfactory, have been ineffective for various reasons. There has been, in addition, the complication of the perhaps over-hasty inrush of white settlers, buoyed up by extravagant hopes and correspondingly discontented when

No. H.R.
I write again
S

He was also...
as would...
good man H.R.

... was administered by (1) The Federal...
(2) The F.O.
(3) The C.O.
111
I. N. Nigeria the R. Niger Co. and was...
... all its employees...
... its employees were taken over by...
... the result that the... was saddled with...
... to keep pace with the development of...
H.R.

when progress was slow. It is only fair to Sir Percy to say that he recognises these reasons for the difference. It is only fair to him also to point out that his record shows that he is not merely a new broom. In Northern Nigeria he followed most loyally and minutely in the foot-steps of his predecessor. He was a strong admirer and supporter of Sir F. Lugard's policies in every respect, as I know from personal experience in the West African Department. He kept Sir F. Lugard informed of his progress along the lines laid down by him in the most careful and, considering the amount of his work, remarkable manner. However drastic his proposals in respect of the East Africa Protectorate may be, they cannot be dismissed merely on the ground that Sir Percy is keen to strike out a new line for himself and is suffering from the usual inclination of a new Governor to reverse the acts and policy of his predecessor.

It would appear from the prominence given to it in the covering despatch that Sir Percy Girouard considers the introduction of a new economic policy as of the highest importance, possibly more important than any other of the reforms which he advocates. The first step in the initiation of such a policy is the permission for which he asks to have a free hand in dealing with coastward rates on the railway for products of the country. It is pleasing to be in a position to tell him that we have already laid this proposal before the Treasury, and have supported it in the...
strangest

strongest possible manner. It is evidently a question which we must fight to the bitter end in the unfortunate event of the Treasury not agreeing outright.

This brings one to the Interim Report on the East Africa Protectorate. The Report contains Sir Percy's general impressions of the administration and its policy and some immediate recommendations. A further report going into more detail is foreshadowed and will of course be necessary before detailed action can be taken or detailed approval given.

His remarks on the present administration are distinctly adverse. He points out that there is an utter absence of any defined policy which would enable him to take up the work of his predecessor and would ensure continuity of effort and direction, and that there is no compilation of administrative or service regulations for the guidance of officers on ^{the} established lines. He points out further that the laws of the country are in a very chaotic state.

Sir Percy says further that there is urgent need of a Native policy; that the effect of the interference of the High Court in decisions affecting natives in the less settled districts is ^{very serious} ~~lamentable~~; ~~at this point of view~~; and that what is wanted is a system, approaching that in force in ^{Nigeria} ~~South~~ Nigeria, of administration and jurisdiction as far as possible through recognised native authorities.

The financial position he puts on one side for the present. He then comes to the individual departments

departments, and a brief summary of his criticisms with regard to them is essential.

Sir Percy considers that the Colonial Secretary has been responsible for many of the troubles of the Protectorate and that previous Governors have in consequence been so worried by these questions that they have had little opportunity of attending to the main problems and evolving a policy. He considers the Legislative Council "an invertebrate body" which requires strengthening, both officially and unofficially. The Secretariat, he says is numerically weak for the work required of it and does not command the respect it should. He fears that the Senate as a body is somewhat discredited. It is evident from the many references in other portions of the Report that there is a grave divergence of opinion between the judicial officers and the administrative officers as to the proper policy in regard to native administration and jurisdiction, and that the Governor in this matter is entirely on the side of the administrative officers.

The Provincial Commissioners, of whom Sir Percy has already met five out of seven, strike him as an intelligent body of men, but they, in common with the rest of the staff of the Protectorate, are suffering from the lack of a general guiding policy. He is not so complimentary about the lower branches of the political staff; he says that in esprit de corps or loyalty they do not compare well with others that he has

has known, and that he has been struck in perusing reports and correspondence with the spirit of factious rivalry and even disloyalty which animates some of the members of the staff. He says that winnowing is imperative and should be ruthlessly carried out.

He is pleased with the bearing of the King's African Rifles, which appears to denote a very satisfactory condition as to training, but he criticises their ^{existing} ~~existing~~ military dispositions. He says, and advances very good reasons for the statement, that the military position is particularly safe, and that the only serious military situation which could arise is in the North, on the Abyssinian boundary. Nevertheless, the bulk of the troops are concentrated at Head-quarters, instead of being widely distributed over the country (as in Northern Nigeria) and being used to occupy and help in the administration of the less settled districts of the Protectorate. If this were done he thinks that the police, which are now used for these ^{very} ~~same~~ "garrison" purposes, would be much more free to undertake their proper police duties, and that the result would be an increase in the efficiency of both forces. This subject is gone into in ~~some~~ more detail in the report on Uganda.

Sir Percy Girouard has been much impressed with the bearing of the Police, though he knows as yet little of its internal organisation or detailed working. We shall no doubt get further observations on this subject when he has had time to consider Captain Edwards' report on the Police Force.

The

? from our own Somalis (1894) and p. 13 & 14.

^{He} ~~The Governor~~ proposes to report in detail at a later date on the Public Works Department. His impression is that it is over-staffed, and he points out that the cost of supervision of buildings and roads is about 40% of the cost of the works to be executed, as against 15% or 16% in Uganda.

The Agricultural Department he characterises as ^a necessary, but in itself practically ^{no revenue bearing} unremunerative, department, maintained almost exclusively for the White population of the Highlands. He remarks that the Head of the Department (Mr MacDonald), though of undoubted ability and energy, is inclined to oppose strongly any curb on his schemes or expenditure. He suggests that it is advisable to utilise the collective opinion of the White farmers by the institution of local and general councils of agriculture to act as advisory bodies.

He is not prepared to pronounce definitely on the Post Office, but the telegraph system strikes him, except along the Railway, as badly equipped and hopelessly inadequate for efficient administration.

The Forestry Department comes in for very sharp criticism. The Governor has already telegraphed to us on this subject in Gov/34354. The criticism is to the effect that far too much has been spent, and that the work most necessary as a preliminary in a new country, namely, that of conservation, has not been undertaken. He recommends the abolition of a separate Forestry Department and of the office of Chief Conservator. This involves the removal of Mr Hutchins.

Sir

Sir Percy attaches immense importance to this proposal, and says that, failing support, it will be very difficult for him to go on with the necessary ~~and possible~~ economies in other departments whose over-expenditure is in no way so obvious. In reply to his telegram of the 16th of October we have already told him that Mr. Hutchins had left for the Protectorate, and that the Secretary of State must wait for Sir Percy's report before forming any opinion on the matter. The ^{question} ~~cost~~ is gone into ^{in the minutes} on 54354. While fully agreeing with all that Sir Percy says about unnecessary expenditure on the wrong lines, I really cannot ^{see} ~~agree~~ that any case has been made out for dismissing Mr Hutchins. Sir Percy himself says that he would in no sense desire to convey censure ^{of} that officer except in his building programme, which is far too extensive. This is not enough to go upon. The fault alleged is extravagant expenditure wrongly directed. This is a fault which the Governor himself is in the best position to curb, and in attempting to do so he would of course receive the fullest support from the Secretary of State. Strongly as Sir Percy speaks on this subject I feel that we ought to adhere firmly to this view. Let him cut down the expenditure of the Forestry Department by three-fourths if he will, but I am sure that it would be impossible on the information before us to justify the dismissal of Mr Hutchins to any unbiassed critic.

Sir Percy considers that the Survey expenditure on the whole is justified, and that in the coast strip

f 19.

Gov
36223

f 21

Handwritten notes:
 Gov
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 f 21
 This is a little more than might be expected 14.12

Handwritten notes:
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 front me properly
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f 1-18.

f 21

f 22

a very much larger expenditure is necessary to settle land titles. We have had a separate despatch on this subject and we are prepared to press the matter strongly with the Treasury.

The Prisons he characterises as an uneconomical organisation which requires to be over-hauled.

The Railway Department is well organised and apparently ably managed. Sir Percy has every confidence in its continued good working.

It would be convenient at this point to abandon the Interim Report on the East Africa Protectorate for a time and to proceed to the Report on Uganda. Later it will be necessary to recur to the statement of policy and the interim recommendations made in the last ten pages of the Report on the East Africa Protectorate.

UGANDA.

The Report on Uganda begins with a long historical statement.

Coming to administration and policy, Sir Percy records his opinion that the finances of the Protectorate afford no cause for anxiety; that they have been most prudently supervised, and that, notwithstanding disabilities as to special expenditure, (chiefly for medical purposes), much long needed development has been carried through.

He finds that the staff are suffering in the same way as the East Africa Protectorate, though in a

minor

minor degree, from the absence of any definite policy. He says that there is much more continuity and similarity of purpose and less action on individual lines than in East Africa. He finds in this Protectorate also the complaint that the power of political officers with the Chiefs is impaired by the revision of their judicial findings by the High Court.

There is a detailed and important statement on the military situation. The general result is similar to that mentioned in the Report on the East Africa Protectorate, namely, that the King's African Rifles ought to be dispersed much more widely and used much more thoroughly for occupying the more backward districts of the Protectorate and releasing the Police for their ~~own~~ proper duties. He considers the first requisite of the situation to be a Commandant for the Military Forces of both Protectorates; the second to be decentralisation in imitation of West Africa and German East Africa; and the third the organisation of the Police for police duties only. He is not at present prepared to say that the military forces can be cut down, but he thinks that the Indian Contingent could very well be dispensed with. It happens, however, that arrangements have already been made for a new Indian Contingent, and that we are thus committed for another three years. This paragraph of the report and the corresponding paragraphs in the report on the East Africa Protectorate should, I think, be registered separately, and dealt with in consultation with the Inspector-General of the King's African Rifles and the Colonial

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p. 25 - 31

p. 33

p. 31

p. 32

p. 34 - 43

Yes - I think we should consider the various points which must be taken into account. We have already considered the report.

Yes. H. J. R.

Colonial Defence Committee. It seems to me that we have here an excellent prospect of effecting re-arrangements which, without diminishing the military efficiency of the King's African Rifles, will result in considerable savings either on that force or on the police, or possibly on both.

The Prisons Department appears to Sir Percy to be admirably administered. It is, he says, mainly the creation of the present Inspector-General of Police (Captain Edwards).

He points out that the expenditure on the Forestry, Botanical and Scientific Departments is only £2,200 (as against Mr Hutchinson's £15,000), and that it has done precisely the preliminary work which the Forestry Department of the East Africa Protectorate has ~~needed~~ needed.

Sir Percy refers to the great difference in cost of supervision of Public Works, and thinks that the high cost in the East Africa Protectorate requires expert enquiry and explanation.

The Topographical Survey he describes as useful, but not of prime necessity.

There follows a long and interesting discussion of communications, covering water communications, roads, and projected railways. This section of the report has a special interest from Sir Percy's acquaintance with problems of this nature, and will, I consider, be very valuable in dealing with future policy in these matters.

Next

Next comes a very long and detailed account of Native administration, land questions, and the agreements made with the Chiefs of the various kingdoms.

It is impossible to summarise it.

On page 80 of the report occurs a very strong criticism of the agreements made and the policy hitherto followed. It is to the effect that the Uganda agreement was a hurried arrangement entered into with unwilling Chiefs; that it is fraught with danger to the future; is based upon no known native law; is so loosely worded as to involve unending litigation, and that the effect has been to break down native administration and create large native landed proprietors in place of that system of holding the land in trusteeship for the people which Sir Percy certainly found to be characteristic of Northern Nigeria and which he believes to have been characteristic of Uganda.

At the end of the Uganda report Sir Percy tackles the question which has inspired both reports, namely, that of amalgamation. He is in favour of amalgamation of a kind. The general benefits which would accrue to both Protectorates are summarised on pages 85, 86, and 87. It is to be gathered that he considers that there should be a High Commissioner responsible for both Protectorates, *with a large number of common services,* and that for Uganda itself there should be a Resident Commissioner with certain separate departments under him for that Protectorate.

pp 44-82.

/ 80

pp. 83-91

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pp 22 + 23

Since Sir Percy ~~was~~ ^{has} reported ~~to~~ ^{on} and report on the question of amalgamation, circumstances have changed considerably. It has been found necessary to designate Captain Cordeaux as Governor of Uganda for a period of two years, which will expire, so far as can be seen at present, about the middle of 1915. There can, therefore, be no question of immediate amalgamation even of the somewhat indefinite kind advocated by Sir Percy Girouard. The whole of the Uganda report can therefore be put away from the present discussion. It will remain on record as a mine of information. The historical part of it is a very useful summary which will save much trouble in future reference, and large portions of it will be valuable both to the Secretary of State and to the new Governor in framing and carrying out future policy. The sections relating to military policy and the policy of communications are, as I have already said, of special value.

It is at this point ~~that~~ ^{that} we must return to the recommendations made at the end of the report on the East Africa Protectorate, pages 21 to 31. The policy which Sir Percy advocates may be summarised as follows:-

- (1) The production of a strong administrative machine.
- (2) The use of native chiefs in the administration of purely native reserves or states; the use of native law and custom and native courts, and only ^{the} gradual introduction of British East Africa law when evolved, except in certain criminal and civil matters which cannot even

at the outset, be left to the discretion of native courts.

(3) More active participation on the part of the white settlers in county or local government; more voice on the Legislative Council, and ^{facilities} ~~participation~~ for giving advice in agricultural matters.

(4) Greater openness with the public of East Africa as to the policy followed by the administration.

My own feeling is that we can agree wholeheartedly on all these four points. The first needs no discussion. As to native policy we shall find a strong and determined opponent in Mr Hamilton, the ^{Principal} ~~Native~~ Judge, whose memorandum of the 1st December 1908, forms one of the appendices to the report. That memorandum puts about as well as it can be put the case for applying British or British-made law in minute details all over the Protectorate. My own sympathies, based on a long experience, at any rate from this end, of similar questions in West Africa, are entirely with the Provincial Commissioners. It seems absurd to me that, with our scattered officials set in such enormous masses of native population, there could ever be any idea of applying our own system of law in detail and individually to the ^{natives} ~~subject masses~~. It is in fact impossible. It could no doubt be done in old established and highly organised districts, but in the further areas on the fringe of administration, and in the new areas hereafter to be occupied, the only method of procedure is to lay sympathetic hands on the native machinery which already exists; in fact, to transform native authority, both administrative and judicial,

pp. 23 + 24

This depends on if not entirely on the Govt's part

judicial, into a tool suitable for the admitted purposes for which our administration in these Protectorates exists. It will need careful discrimination to decide where this system shall be followed and where the Principal Judge's idea of absolute adherence to British or British-made laws and procedure shall be adopted. But it can be done, and I am sure that Sir Percy Girouard, with his experience of the similar ^{problem} ~~procedure~~ in Northern Nigeria, and with the aid of a political staff with whom he appears to be in entire sympathy on this point, will be successful in handling the question.

The third point of policy, which relates to the white settlers, is, I think, on the right lines, but of course it will be necessary to go slowly and consider carefully the detailed proposals made under this head.

Fortunately Sir Percy has had the foresight to make ~~separate~~ recommendations which are applicable to East Africa whether amalgamation is decided on or not. We can, therefore, consider them on their merits, undeterred by the fact that amalgamation is for the present out of the question. He advocates the appointment of a Chief Justice, a Colonial Secretary, an Attorney General, and a Commandant for the combined forces of the two Protectorates. He also sketches out his idea of the distribution of work between the various departments. He states his idea of the composition of the Executive and legislative Councils. It seems to me that he makes out a preliminary case on all these points, but of course detailed consideration must follow.

p. 28

pp. 28 + 29

p. 30

So far as finances go, he states that the re-organisation ~~and re-appointments~~ which he proposes will involve no increase of the estimates but will be met from savings. On this understanding I think that the appointment of a Chief Justice, a Colonial Secretary, and an Attorney General is in itself desirable. We should have to consider the question further in the light of the difficulty of dealing with the present holders of appointments which have virtually taken the place of these, viz:- The Principal Judge, the Lieutenant Governor, and the Crown Advocate. The question of appointing a Commandant should depend upon the decision as to military arrangements, which I have suggested should be undertaken separately. The re-organisation of departments ~~only~~ calls for the comment that certain departments which are now separate are here subordinated to others. The Police department is to be under the Attorney General; the Customs Department is to be under the Financial Commissioner, (who will no doubt be the present able Treasurer); and the Forestry and Agricultural Departments are to be under Lands and Agriculture.

It is difficult to know how these important re-arrangements are to be carried out. Captain Edwards holds the appointment of Inspector General of Police; Mr Hutchins holds the appointment of Chief Conservator of Forests; and Mr MacDonald holds the appointment of Director of Agriculture; Mr Major holds the appointment of Chief of Customs. *There will be very great difficulty in fitting them into positions of less independence. They enjoy large salaries; and that seems to point inevitably to loss.*

larger salaries for the heads of the departments in which it is proposed that they should be appointed. Further, it does not appear that the proposed re-organisation of the Medical Department, unless it is included under the head of Public Health, is in the sphere of action of the Colonial Secretary. I think it will be necessary to consider all these points in detail with the Governor. If we are not able to get rid of Mr Hutchins or his subordinate, we are still less able to get rid of the other Officers named, and from this point of view Sir Percy was quite right in advocating capital expenditure on his proposal to terminate Mr Hutchins' services. However, for my own part I adhere to the views which I have already expressed on that point, and, if this re-organisation is to be carried out, it is for Sir Percy to tell us how it can be done consistently with the claims of the officers named above as the heads of separate departments. It is possible that he only indicates an ideal to be worked up to as circumstances permit.

As to the Councils, it will be seen from the comparative statement at page 30 of the report that some of the suggested changes would follow from the new appointments and the reorganisation suggested. Thus, if there were a Colonial Secretary, there would be no Lieutenant Governor, and the Colonial Secretary would naturally replace the Treasurer on both Councils. The new Attorney-General would naturally replace the Crown Advocate on both. The amalgamation of the Agricultural Department with the Lands Department would make unnecessary the presence of the Director of Agriculture on the Legislative Council. The important alterations suggested

in the Legislative Council, other than those which follow, as described, from new appointments or rearrangement of departments, are the removal of Mr. Collins, Secretary for Native Affairs (henceforth a part of the Colonial Secretary's Department), the making of Sir Commissioner of Public Works ~~an~~ an ex-officio instead of an official member, and the addition of 3 unofficial members. The net result of the changes would be to have 6 ex-officio members, one of whom is the Governor, face to face with 7 unofficial members. The present Council has 6 ex-officio, 11 official, and 6 unofficial members. The margin against a vote adverse to the Government is thus considerably narrowed. This is an important accomplishment of giving the people of the Protectorate more voice in their own affairs, and I should be inclined not to let the number of unofficial members exceed 6 at present.

It looks a little odd to have both the Governor and the General Officer-General of the Legislative Council. No other Department is doubly represented. The necessity for discussing details of legislation may account for it.

The immediately necessary thing is to intimate to Sir Percy the sympathy and interest which the Secretary of State has received this report and the value he attaches to it, and to show him that he is secure of full support within reasonable limits. It should at the same time be made apparent that he must expect a certain amount of criticism, and that it is not possible to swallow all the proposals which he puts forward without examination.

A telegram conveying all this would be a lengthy one and

and expensive affair, but I think it is worth the circumstances. This is accepted in the local circles. It has now been agreed that the Governor should have there is to be a new Governor. I think that we ought to have an immediate and a Governor. I am naturally sympathetic to the idea of the Secretary of State in other respects, I am afraid that Sir Percy will very naturally, that I should have been very well served by the appointment of a Governor for a period of two years or instructions to be given to the Governor. I would therefore suggest for Lord Grey's consideration, that a Governor should be appointed on the following lines:

I have received your report on the re-organization of the East Africa Protectorate and Uganda. I have read it with very great interest, and am much indebted to you for the time and trouble devoted to it, which must have imposed a heavy strain on you in taking up your new duties. The proposals will be carefully considered in detail, particularly on the arrival of your further report on the East Africa Protectorate. In the meantime you will no doubt desire to receive some general indication of my attitude towards the economic policy suggested in your Memorandum of the 13th of November, and already been recommended to the Treasury in the strongest possible manner. As to amalgamation, circumstances which I will explain to you separately have made it necessary to designate a new Governor of Uganda for a period of two years. Amalgamation therefore is not practicable at present, but I am much impressed by your arguments in favour of amalgamation.

the intention only given in the letter of 11/11/19
attached to the letter of 11/11/19
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not more than

amalgamation of some kind, and I shall not cease to consider the question more closely during the period of office of the new Governor. In the meantime your report on Uganda will be extremely valuable ~~to me~~ and to the new Governor, particularly in the matters of the land question, communications, and military policy. There will be nothing in the appointment of the new Governor to prevent the construction and working of the railway from Jinja to Kakinga as a part of the Uganda Railway, if, on the receipt of the report which I have requested you to furnish on this subject, such a course appears to be desirable.

As to the East Africa Protectorate, I agree generally in your view that the administrative staff should be strengthened; that native chiefs should be used in the administration of purely native reserves or states; and that it is desirable to encourage a more active participation of the white settlers in county or local government and in agricultural matters. I agree in principle in the desirability of the first three of the new appointments which you suggest. Have you made any provision for them on the estimates for the coming year? It will be necessary to consider in connection with them the position of the present holders of the offices of Principal Judge, Lieutenant Governor, and Crown Advocate. I presume that you will submit detailed recommendations on these points. The question of appointing a Commandant must depend on a decision as to the military question generally, which will be separately considered in the light of your remarks. I agree generally in your proposals for the redistribution of the work of the departments

departments, but I regret that I do not see how, on the information before me, to terminate the appointment of Mr. Hutchins, though you may be sure of my fullest support in reducing the expenditure of his department to any amount which you may consider necessary. It will be necessary to consider ~~separately~~ his position and the position of other heads of departments now separately before I can give detailed approval to the new scheme. Perhaps you desire to indicate an ideal to be worked up to as circumstances may be. I have not seen the heads of departments, and it is possible, if you have not already done so, send me the briefest possible explanations and recommendations of these points, realizing that it will be necessary to adjust the claims of officers now at the head of separate departments by some means other than dispensing with their services, unless absolute inefficiency can be maintained against them.

I agree generally as to composition of Council, but the change to new composition will have to be gradual depending on appointment of new officers and staff, and progress of reorganization. I consider also that the number of unofficial members should be raised to 6 at present.

In conclusion, I desire again to express my very sincere thanks, and my warm appreciation of the ability and usefulness of your reports.

JFAB
Dec. 14

Mr. Zoller
Mr. Butler has dealt so fully with this interesting subject that it is hardly necessary for me to add anything. But when we shall find

...carrying out his financial reforms will be in the working out of inefficient officials. Some of these are doing excellent work in the early pioneer days of the settlement but to cut them adrift without some sort of provision. But when it comes to a question of giving men of this kind a retiring allowance we get no assistance from the Treasury, who in the past have taken up a most unimproving attitude in the matter. I only hope that Sir P. Finlay's representations will be more effective than those of his predecessors.

There should be less difficulty in carrying out some of Sir P. Finlay's other proposals. The engagements of the Commissioners of Lands & the Commissioner of Public Works expire shortly, the Commissioner of Forests does so next year & already has a provision from other sources, the Head of the Survey Dept. is only second from the R.E., & the Head of the Transport Dept. is near the retiring age, & that there will be some opportunities of re-adjustment in the same future. - Signed J. G. K. 19/11

It is impossible to deal in a single paper with all the questions which you have raised. He properly calls it an interim report, and he will have to take up the various matters separately.

One thing seems to me to stand out clearly: viz that on no ground of public advantage is amalgamation desirable at present. The Govt will have enough and more than enough to do as his country is dealing with the problem of the East. He practically says however that he would be a better person administratively than the East. He suggests that the Govt. be the case if a white dividend came into being, but if this happened it would allow an additional sum against amalgamation, as it would make it more than ever necessary that the Govt. should be on the spot. The Government have recently given a most striking proof of their capacity for development - apart from an agreement with the ... on ... - in ... it ... to give them a chance of development ... as has been done ...

unless he gets a free hand as the result of the
 unaccustomed altitude or a highly energetic temperament.
 When he gets used to living 7000 feet above sea
 level the energy will remain and the tendency to hurry
 will vanish. In the mean time we may well support
 and encourage him as far as possible. It is a good
 thing to have in our service a man so full of energy
 and enthusiasm for his work.

H. J.
 2.1.10.

It is a shocking expense to
 send the long telegram which
 is very good for
 the matter for
 despatch. I receive
 however that for some reason
 our relation with his P.
 formed an definite
 concern with the subject of
 of the situation.
 I have made a few slight
 alterations in the draft.

J. H.
 4.1.10

Telegram as proposed. It is a
 serious matter to send so costly
 a message, but the crisis are
 special. C. S. I. 09

Verbal at
 work in presence
 with Mr. P. H.
 Colman.

W. Fuller

I think that there is quite enough
 in Mr. Tomkins' memo: to justify us in
 asking him to put forward his views in
 an official despatch.

Personally I think that it would be
 unwise, at any rate for the present, to
 amalgamate Uganda with the E.A.P. In
 addition to the objections mentioned by
 Mr. Tomkins, it seems to me that the
 E.A.P. with its numerous problems is likely
 to require all the attention of Sir P.
 provided for some time to come. Further
 Sir P. is evidently giving the way for
 giving a larger place in admin: to the
 white settlers of the E.A.P. + I do not
 think that a partly native country like
 Uganda would be likely to benefit by
 the amalgamation.

There is, however, a serious question
 of amalgamation which seems to be desirable
 in itself + which would throw but little
 additional work on Sir P. J. - the
 amalgamation of Zanzibar with the
 E.A.P. Mr. Tilley of the Fed. + I
 have written a memo: on the subject -

& the Council General at Zanzibar with regard
to the Sultan's inland possessions -
suggesting that Zanzibar should be transferred
to the C.O. when the new Zanzibar treaty
with Germany has been negotiated about
the middle of next year. The memo is
being sent forward to Sir S. P. for
consideration & it shall be dealt with here from
the P.D. & due course.

Sir S. P. would probably like to
have his command extended to the
interior & with the added responsibility
he might be less keen about the
Tanganyika amalgamation.

H. J. R.

17/5

Col. Seely
Lord Curzon

I think the proposal might be
that he may govern this province. Officially as
Governor of this province. It is less certain, and
as we have arrived I like his view. Not
especially his remarks on the Uganda Agreement
of 12/5/05.

A new & dignifying function is being
contemplated before the cabinet in view of Sir S. P.
desires to advance promising by with well-
known in the past. He would be called

if he could I mean the same matter,
but it is impossible that the same should be
to well kept. But the Sultan's views have
led to the proposal to be made
the Director, and I fear in other lines
difficulties, that blood, in emergency - for
years to see is impossible and it is
the new future

18/10

Lord Curzon

I am disposed to agree with Mr. Read as
to the desirability of adding Zanzibar to E.A.P.
I also agree that it is inadvisable to amalgamate
the E.A.P. with Uganda now, and one doubts
if it ever will be

18/10

I agree that if amalgamation were
Zanzibar can be carried out immediately
with international obligations, it would
be a distinct advantage in being very
As regards Uganda, I understand that
Sir P. Givons' view is to the effect that
the position of white & native is so different
in one or another regard in the E.A.P.,
that its situation would be helped by
creating a separate province. He would be
for all native affairs in the amalgamated
area, the white settlers having extended power
over their own affairs under him, but he would
be native affairs. They clearly would be
in some regard, and would then be very
the E.A.P. It may be a function of this is a
project but it is one which has to
be considered with other alternatives.
I think it will prove a very serious
amalgamation.

Tobias's talk
to be an end
to name
usually
H. J. R.
18/10



BRITISH EAST AFRICA

FORMER NO. 11
 1917

Mr. Sir [Name]

I have been thinking
 because I have not yet
 written to you for some
 time. I have been very
 busy - the reports & proposals
 submitted for me & they
 have not yet been
 passed through the department
 though I have discussed S.A. with
 Jackson & Lysons with Ray.

a further check at the hundred
business, but I think it is the
hundred acres at Montrose. which
is included, that they really want
This part of the concession
fantastic & Hocking is to have
I believe for putting it under
himself as an acting man. 100
acres here means half an acre
that at a time when you suggest
we should buy more land we
will have to - I am prepared
to compromise with Grogan but
the 100 acres must come out

Confidential

M E M O R A N D U M

CONTAINING

ROUGH NOTES FOR A DESPATCH TO THE GOVERNMENT OF
STATE upon the question of Amalgamation between
the UGANDA PROTECTORATE and the EAST AFRICA PRO-
TECTORATE.

1. I have now had an opportunity of reading this Report and after a most attentive and respectful perusal I have come to the clear opinion that whatever advantages, financial or otherwise, might result to the East Africa Protectorate by the proposed amalgamation, it could not be otherwise than detrimental to the best interests of this Protectorate. The question whether it is legally possible does not appear to me to be without doubt.

2. I observe that Mr. Boyle, during my absence, concurred in the proposals, but for the reasons which will be stated hereafter, I am inclined to think that he subsequently modified his views.

3. I desire at the outset to state my firm conviction that the conditions of the two Protectorates are so entirely different and so complex in themselves that I do not believe it possible for any person (other than, perhaps, a High Commissioner) whose time is occupied with the affairs of the East Africa Protectorate at the same time adequately to grasp the affairs of this Protectorate. The two Protectorates are not only entirely different in inhabitants, climate and produce, but for all intents and purposes they may be considered geographically divided by a considerable expanse of water. It is true that they are contiguous on
one side

one side, but at present the only communication is by steamer across the lake, and the Governor of the East Africa Protectorate is not in favour of railway communication between the two territories, it is not a practical question.

4. The prosperous state of the Uganda Protectorate is admitted, and it appears to me that the burden of showing that it is likely to be more prosperous under an amalgamation lies upon the person proposing it.

Proposed Scheme of Amalgamation considered.

5. I propose now to deal with the scheme of the Governor of the East Africa Protectorate, and in the first place to consider the advantages which he considers are likely to accrue to this Protectorate from the amalgamation, and then to submit certain reasons for thinking that any advantages which might arise from amalgamation are outweighed by serious disadvantages.

6. It does not seem necessary to comment upon the interesting historical, geographical and ethnological essay with which the Governor of the East Africa Protectorate introduces his proposals. I may, however, in passing, take notice with satisfaction that the Governor of the East Africa Protectorate reports (page 22) that the finances of the Protectorate afford no cause for anxiety; that they have been most prudently supervised; and that notwithstanding grievous disabilities as to special expenditure, much long-needed development work has been carried through.

7. Section 3 of the Report calls for no special comment in reference to amalgamation. I may again notice with satisfaction that (page 23) the opinion is expressed that there appears

there appears to be more continuity and more stability of purpose and less individual idiosyncrasy than in East Africa; that the circulars on administrative and financial matters are in more complete order than is the case in East Africa, and that the laws are indexed in a much more satisfactory manner.

8. The Governor of the East Africa Protectorate is under a misapprehension in thinking (page 23) that District Officers refer their reports to Head-Quarters. They refer their reports to the Provincial Commissioner who has charge of the Province and takes such action upon them as may seem desirable; except the District Commissioners at Fort Portal and Mbarara who report direct to Head-Quarters, and at Nimule where the District Commissioner is in charge of three Districts and performs duties analogous to those of a Provincial Commissioner.

9. Section 4 on the relative duties of the Military and Police does not, it is thought, bear upon the question under consideration.

10. Section 5. Departments. Secretariat. I agree that the title of Secretary to the Administration is redundant. The Officer, however, performs duties analogous to those performed by the First Assistant Secretary in the East Africa Protectorate, and his title is derived from the days when there was a Deputy Commissioner.

I notice with pleasure that the expenditure in connection with Prisons is a pleasing contrast with the expenditure in the East Africa Protectorate and that the Department appears to be admirably administered.

As regards Transport, it is possible that economies might be made. Every effort is, however, being made to

ensure economy.

4.

ensure economy. I do not, however, consider that the appointment of a Director of Transport with head-Quarters at Nairobi, almost a week's journey from Entebbe, would secure the end desired.

Forestry, Botanical and Scientific. I notice with pleasure that the Governor of the East Africa Protectorate is much struck by the almost exclusive use of native timber in preference to imported timber, and that the savings in works have consequently been very considerable.

Public Works. I notice with pleasure that the rough cost of supervision is about 15 to 16 per cent in this Protectorate as against 40 per cent in the East Africa Protectorate, and that the capital cost of buildings generally is much lower than similar buildings in the latter Protectorate.

11. As regards communications, (page 36) there can be no doubt that railway communication is more efficient than road communication, but special sanction would have to be obtained from the Lords of the Treasury before any expenditure on a railway is incurred. The Governor of the East Africa Protectorate appears to have overlooked the fact that in Uganda, by virtue of the Uganda Agreement, the natives can be called upon to a considerable extent to keep the roads in good order, and it is thought that in this Protectorate it will be many years before railway construction will be so sufficiently advanced as to do away with the necessity for good roads.

12. The next matter requiring comment as regards the question of amalgamation appears to be the legal difficulties which have arisen in regard to lands. It does not appear clear what the Governor of the East Africa Protectorate

means

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means when, referring to the Uganda Agreement, he says (page 63) that "if the question became part of even greater and larger policy, its relative importance would be more adequately recognised and dealt with. Or again, that if amalgamation occurred there would be the weight "of a strong administration to relegate it (the Agreement) to its proper position". There is not, as is suggested by the Governor of the East Africa Protectorate, any particular fear in this Protectorate in dealing with this question, which is, after all, purely a legal one. The existence of the Agreement is the central fact of the Protectorate, and I am unable to think that it could be relegated to "its proper position", presumably the background, even if it were desirable so to do. Even if the Protectorate was amalgamated with the whole of the British possessions in Africa, the Uganda Agreement would nevertheless remain the central fact of administration in Uganda, unless the British Government was prepared to go back upon its solemn assurances and treat it as null and void. This proposal cannot for one moment be seriously considered.

13. As regards Section 13. Conclusions and Recommendations. The Governor of the East Africa Protectorate considers (page 66) that, although Uganda is in the healthier administrative condition of the two, the Provincial Administration may be considered languid. It appears to me that this is a somewhat harsh phrase to use. The Governor of the East Africa Protectorate was in this Protectorate for the period of a fortnight, spent for the greater part at Headquarters, and during that time he cannot have had much opportunity of observing the personal qualities of the Administrative Officers. I am somewhat surprised to find that

Mr. Boyle

Mr. Boyle should have allowed this to have passed without comment. I feel sure that during his able and singularly successful administration of the Protectorate he would not have tolerated any such state of affairs. My personal knowledge of all the Officers of this Protectorate enables me to state that whatever faults may be attributed to them, lack of energy is one which could not with any justice whatever be brought against them.

14. The Governor of the East Africa Protectorate is not quite correct (page 87) in stating that upon the East Africa Protectorate alone has fallen the duty of organising the joint services of Railways, Customs, Post and Telegraphs and Marine.

The Customs are not amalgamated. The Uganda import duties are collected at Mombasa, but the export duties of this Protectorate are collected here, and the two Departments are separate. His Lordship, having thoroughly considered the question, directed that no amalgamation should take place. (See Despatch No. 399, dated 1st December, 1909).

As regards Posts and Telegraphs, these are amalgamated and work satisfactorily so far as the Posts is concerned and the collection and delivery of telegraphic messages. The Construction Department of the Telegraphs, however, works extremely unsatisfactorily, owing in the main to the great delay which takes place in communicating with the Head-Quarters of the Department at Nairobi. It is found that this small Department gives more trouble in this Protectorate than any other Department. The Head of the Department is frequently on tour from his Head-Quarters at Nairobi through the East Africa Protectorate and most vexatious and confusing delays

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delays occur in obtaining his instructions. I propose to address His Lordship separately on the question as to whether it would not be advisable to separate the constructional Telegraph Departments.

As regards Marine, there is at present a well-established Marine Department with steamers on Lake Albert, Lake Kioga and Victoria Nyanza, and a considerable flotilla of smaller vessels. This Department is working with great efficiency and handsome profits are being shown in the recent returns. I am convinced that it could not be more successfully controlled if the Head-Quarters were transferred to Nairobi.

As regards Railways, it is true that this Protectorate has only recently had an opportunity of showing what it can do in that regard, but the Honourable the Manager of the Railway, who has recently visited the Protectorate and the railway works at Jinja, has expressed himself satisfied with the way in which this Administration is assisting him in the building of the Jinja-Kakindu Railway.

The statement made by the Governor of the East Africa Protectorate, therefore, that that Protectorate carries on and continues to carry on any Departments for the general benefit of both Protectorates does not convey a correct impression of the actual position. Indeed, the only Department which is carried on in East Africa for both Protectorates is the exceptional one of Posts and Telegraphs.

Alleged General Benefits to both Protectorates considered.

15. With regard to the general benefits (page 88) which, it is alleged, would accrue to both Protectorates;
- (1) It does not appear clear how the Judiciary, Legal or Secretariat

8.

or Secretariat Departments would be strengthened by amalgamating the present staffs.

(2) Whether any benefit would or would not be derived from the complete fusion of Departments at present jointly managed is part of the question under consideration.

(3) The Military have now a common head in the Inspector General.

It is clear that it would be disadvantageous to place the Police and Prisons of the two Protectorates under one head. It will be present to His Lordship's recollection that a correspondence took place on this subject when the Inspector General of Police was appointed for the two Protectorates. Captain Edwards desired to retain his powers as an Executive Officer, but it was represented by Sir Henry Bell that it would be highly inconvenient and would result in friction and delay if executive matters of the Police in this Department had to be referred to him at Nairobi, and His Lordship expressly decided that he was not to have executive powers. (See Confidential Despatch dated 8th March, 1909.)

(4) The question of the Railway being under the East Africa Administration has been considered by His Lordship and decided in the negative. (See Confidential Despatch dated 30th July, 1910).

(5) Interchangeability of Staff and more scope for promotion. The staff is at present interchangeable and changes from time to time take place upon representations being made to His Lordship. I consider, however, that an Officer has ample scope for his energies in mastering the conditions, native and otherwise, in one Protectorate; and

that

that lack of efficiency would arise if he were transferred back and forward between the Protectorates, the conditions of which are so entirely dissimilar.

I think I may say that the unanimous feeling among Officers in this Protectorate is against amalgamation. That this is so is highly creditable to them, having in view the fact of the healthier conditions and other advantages of the East Africa Protectorate. I believe it to be due to the absorbing interest which Officers in this Protectorate take in their work. I believe they feel that should amalgamation take place there will be a general diffusion of interest, and that they will consequently be unable to see the progress of the work under their hands, as they are able to do with the Protectorate as at present constituted.

(6) It is not clear in what way a larger outlook upon all problems and policy of government will be secured by amalgamation, except in so far as this might be secured by the appointment of a High Commissioner.

(7) The savings which are proposed are not very definitely indicated, and I venture to think that they would not be realised. The staff in Uganda is at present working at full pressure, and I do not consider it will be possible to cut it down or secure an efficient staff for less expenditure.

Alleged benefits to Uganda considered.

16. As regards the principal benefits which may be expected to accrue to Uganda:

(1) Interchangeability of Staff. I have dealt with this question above.

(2) Strengthening of Staff and the aid of organised

Lands

10.

Lands, Agricultural, Scientific and Veterinary Departments.

I venture to think that the Governor of the East Africa Protectorate had not time in his fortnight in Uganda to examine the workings of the Land Office as at present constituted. In Mr. Allen the Protectorate enjoys the services of an exceptionally capable and reliable Officer, who has brought his Department to a high state of efficiency. It is not without interest to notice that a despatch has been received from Sir Henry Hesketh Bell in which he spoke in terms of the highest praise of Mr. Allen's administrative capacity, and requested that he might be supplied with copies of the Regulations governing the sale or lease of building lots and other lands in this Protectorate, which, he considered, would be equally suitable for Northern Nigeria. Sir Henry Bell stated that no "Land Department" had yet been established in Northern Nigeria, and that he thought that that country could not do better than take the Uganda one for its model.

The Cotton, Botanical, Forestry, Scientific and Government Plantation Departments in this Protectorate are now well established, and I do not consider that they would be more satisfactorily controlled from Nairobi.

(3) As regards the extension of railway and water communications, this question has been examined by His Lordship, who has given his decision on the subject.

(4) As regards a wider outlook on general policy, I have already dealt with this question.

Proposed Joint Services considered.

17. As regards the Joint Services (page 91), the following

11.

following comments may be made:

(1) Railways. This has been dealt with before.

(2) Posts and Telegraphs. This has been dealt with before.

(3) Customs. At present the Customs Departments are not amalgamated.

(4) Military. No comment need be made on this. There is already an Inspector General and Staff Officer.

(5) Police and Prisons. The Inspector General to become an Executive Officer. This has been referred to above, and it has been decided that it was highly inconvenient.

(6) Public Works. The satisfactory position of the Public Works Department in this Protectorate as compared with the East Africa Protectorate has been noticed by the Governor of the latter Protectorate, and it does not appear clear that the fusing of the two will increase the efficiency of that Department in this Protectorate.

(7) Transport. It does not appear clear that, in view of the fact that it takes nearly a week to get from Entebbe to Nairobi, the Transport Department would be managed more efficiently from Head-Quarters at Nairobi.

(8) Medical. The Medical Departments of the two Protectorates were originally separate, and after a brief and unprosperous experience of the disadvantages of amalgamation, it was found desirable to separate them again. (See Sir Henry Bell's despatch, Confidential, dated the 28th December, 1907) Since the separation, the Medical Department of this Protectorate has worked efficiently and has been the subject of much commendation from His Lordship. The appointment of a Director General would of course mean increased expenditure.

(9) Treasury. It appears that a Financial Commissioner would be appointed, which would of course mean increased

expenditure

expenditure.

(10) Legal. It is proposed to abolish a Crown Advocate and to substitute a Legal Adviser. The differences in his duties are not, however, indicated. The time of the Crown Advocate in this Protectorate is fully occupied, and I am glad to know that His Lordship has not infrequently had occasion to express satisfaction with the legal work now emanating from this Protectorate. No doubt the time of the Crown Advocate and Assistant Crown Advocate in the East Africa Protectorate is also fully occupied, and it does not appear clear in what way changing their titles will give them sufficient time to attend to the legal problems of Uganda. It may be said that the legal problems of Uganda would fall to the lot of the Legal Adviser, but if this is so, it does not appear clear in what way the position is altered. The Attorney General and Solicitor General would no doubt be fully engaged in the daily work and legal problems of the East Africa Protectorate, and I do not think that they will have time to master and deal with the intricate legal position in Uganda. I consider that, in cases which required it, a reference direct to His Lordship's Legal Advisers, who are familiar with these problems, would be incomparably more speedy as it would be incomparably more efficient.

(11) Judiciary of Supreme Court of British East Africa.

At present the Judges are all members of the same Court of Appeal, and should occasion arise, a Judge of the one Protectorate may be appointed for the time being to be a Judge of the other Protectorate.

As regards the codification of laws, I am informed this is a matter which is not so lightly to be undertaken as may be imagined. Both Protectorates have now a large body of

laws

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laws suitable to their local conditions and dating back for a considerable number of years. To assimilate these laws, even if it were possible or desirable, would involve an extraordinary amount of labour. It is clear that this could not be done by the present Crown Advocate or proposed Legal Adviser in Uganda and the Crown Advocate and Assistant Crown Advocate or proposed Attorney General and Solicitor General in the East Africa Protectorate, so long as these Officers were required to carry on their current legal work, and it would imply the appointment of a highly paid Committee for a considerable period.

Result of the Examination of the Scheme.

From the above examination of the proposals put forward by the Governor of the East Africa Protectorate, I venture to submit that it appears that the only advantages which could possibly arise from amalgamation are :

- (a) The services of a High Commissioner; and
- (b) What are somewhat obscurely referred to as "large savings".

Difficulties and Objections to the Scheme.

I now propose to deal briefly with some difficulties and objections which arise upon amalgamation, and first I propose to deal with the two advantages which I have submitted are the only ones which could possibly arise.

- (1) As regards the appointment of a High Commissioner.

Here I find myself upon rather delicate ground. I consider, however, that it is my duty to say that the disadvantages of such an appointment are not inconsiderable. The Governor of the East Africa Protectorate, with unerring penetration, states the chief objection when, (page 90) he writes that " it may be urged that Uganda, without a distinct head

14.

" head and direct access to the Colonial Department, would be in a weaker condition to demand its own rights, and that it is a native country unsuited to immigration which should be dealt with as a separate problem". I entirely agree with this statement of the position. The immigration referred to is, I apprehend, the immigration of Settlers. This country is very unsuited for Settlers: during the last five years there have only been three Settlers: two are now dead. There is, however, an increasing class of Planters: they appear to be prosperous and satisfied with the efforts of the Administration to assist in the development of their estates.

The affairs of this Protectorate, are, in my opinion, of sufficient complexity and rapidly growing importance to demand the best attention of a Governor. Sir Henry Meskith Bell, who was a Governor of exceptional energy and initiative would, I feel sure, agree that the affairs of the Protectorate supplied ample occupation for his energies.

I am convinced that a personal knowledge of the problems of this country is essential, especially in dealing with native questions. In every case of the appointment of a new High Commissioner, the necessity of making himself practically acquainted with the East Africa Protectorate would absorb his attention for a considerable period.

There is also the difficulty, to which I shall allude later, of inter-communication between Entebbe and Nairobi. As a rule it would be at least a month before the decision of the High Commissioner could be obtained, and on all matters requiring reference to the Secretary of State several months might easily be occupied by reference backwards and forwards before the matter was ready for submission to the

Secretary of State

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Secretary of State. I venture to submit that it is more desirable that there should be a Governor with time and opportunity to study the local conditions and having direct access to the Secretary of State, rather than that all matters requiring reference to the Secretary of State should first have to pass through the channel of a High Commissioner, who, for a very considerable period after appointment, would not have time adequately to investigate the affairs of this Protectorate.

(2) As regards general savings, the Governor of the East Africa Protectorate foresees large savings. He does not indicate the exact sources of these savings. I am able, however, with more precision, to indicate definite increases of expenditure under the proposed scheme, which I venture to think would far more than swallow up any savings which might be made. In the first place, as I have said above, I do not consider the Protectorate staff can be reduced below its present equipment, nor could an efficient service be maintained by Officers being appointed at a less salary than at present. It is clear from the Report that the following increases in salary may confidently be anticipated:

- (a) The additional cost of a High Commissioner.
- (b) Increased salary for the Lieutenant Governors or Resident Commissioners.
- (c) Increased salary for the Chief of Customs.
- (d) Increased salary for the Commissioner of Public Works.
- (e) Increased salary for the Director of Transport.
- (f) The whole of the pay of a Medical Director General.
- (g) The whole

- 16.
- (g) The whole of the pay of a Financial Commissioner.
 - (h) Increased salary for Attorney and Solicitor General.
 - (i) Increased salary for Military Head-quarters Staff.

It is thought that these increases would amount to a not inconsiderable sum.

19. Having dealt with these suggested advantages, I now propose to consider certain difficulties and objections as regards the scheme as a whole.

20. In the first place, as one of the most serious objections, I would wish to lay stress upon the fact that this Protectorate may be considered as a separate entity, having little or nothing to do with the East Africa Protectorate. It is contiguous on one side with the East Africa Protectorate, but for all practical purposes it may be considered divided from that Protectorate by the Victoria Nyanza. It takes five days to get from Entebbe to Nairobi, as the steamers from Entebbe must call at the different ports in Uganda in order to secure cargo for the Railway, and it is not expected that there will be a direct steamer from Entebbe to Port Florence for some considerable time. Thus it is that although the journey from Nairobi to Entebbe is correctly stated by the Governor of the East Africa Protectorate to take five days, the journey from Entebbe to Nairobi takes five days, and no reply by post can be obtained from Nairobi under a fortnight.

21. If the Head-Quarters are ordinarily situated at Nairobi, intolerable delays will occur in getting instructions from Heads of Departments. In all cases, even with great promptness in dealing with matters, a delay of three weeks to a month may be expected to occur in these communications,

instead of

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instead of, as at present, Heads of Departments being able to deal with Uganda questions within two or three days. The effect of this delay upon efficiency cannot be otherwise than very detrimental. As I have said (the Postal Department being excluded) the only amalgamated Department having its Head-Quarters at Nairobi is the Telegraph Construction and Maintenance Department, and this Department, owing to the great length of time taken up in obtaining the instructions of the Head of the Department, has proved most unsatisfactory in its working. It was for these reasons also that, as mentioned above, the previously amalgamated medical department was separated.

22. It is therefore, I submit, clear that the establishment of Head-Quarters at Nairobi, situated at such a great distance from the actual seat of affairs in this Protectorate, could not but fail to have a disastrous effect upon the efficiency of the service and would entail increased expenditure and waste of public monies.

23. The conditions in the two Protectorates are almost entirely different as regards administration, native government and produce. Many travellers, distinguished and otherwise, have remarked that upon crossing the Lake they appear to have come to an entirely different country. The relations existing between Officials, Civilians and Natives bear no resemblance to those of the East Africa Protectorate. In this Protectorate there is an organised scheme of native government of considerable importance; and it is not too much to say that the whole scheme of administration is entirely different to that of the East Africa Protectorate, and requires special knowledge which can only be acquired in the Protectorate.

24. I believe that I may say without a doubt that the unanimous opinion

18.

unanimous opinion of instructed persons in this Protectorate would be against an amalgamation, on the ground that it would make this Protectorate less efficient and less prosperous. As regards the fact that Mr. Boyle concurred in the views expressed in the Report under consideration, I cannot but think that he subsequently modified his opinions. When the question of placing the Jinja-Kakindu Railway under the East Africa Protectorate was under consideration, Mr. Boyle was adverse to that course being adopted, although it is thought that such a course would have tended to an amalgamation.

25. As regards the European population, I am assured that an amalgamation would not be welcomed by them. The relations which exist at present between officials and all classes of the community are here of a very cordial nature, and I believe they are quite satisfied with the present form of Government.

26. As regards the native governments, I know that they would greatly demur to any amalgamation which would tend to reduce their rightful importance. All Administrative Officers of experience in this Protectorate are agreed that the best method of developing the country is through the native governments, and that these governments should be upheld and established.

27. The increase in the revenue of this Protectorate during the last financial year amounted to the sum of £63,000. £22,000 of this was in respect of import duties on goods imported into this Protectorate collected at Mombasa and now for the first time paid over to this Protectorate. Previously to this year this large sum was devoted to the development of the East Africa Protectorate and diverted from this Protectorate to which it was properly attributable. The

balance

balance of £40,000 was from increase in general internal revenue. I venture to think that these figures show a very healthy and satisfactory state of affairs in the Protectorate, and that very clear proof that it would be more prosperous and efficient under so far reaching a change as amalgamation is necessary before the change should be brought in.

28. A legal difficulty in the way of amalgamation must not be overlooked. In spite of the view which is taken by the Governor of the East African Protectorate that the Uganda Agreement should be relegated to its proper position, it is, as I have said, a very vital fact in Uganda affairs and has been affirmed and re-affirmed times without number. The late Under Secretary of State for the Colonies, Mr. Churchill, in addressing an assembly of the Kabaka, Regents and Chiefs, said:

" His Most Gracious Majesty the King has been pleased to raise His Excellency from the rank of Commissioner to that of Governor. That is a recognition of the high esteem in which the services of His Excellency are held. It is also a recognition of the growing importance of Uganda amongst the possessions of the British Crown, but that alteration in the position of His Excellency implies, as he has told you, no alteration whatever in the position of the Government he regulates. The basis of those regulations is the Uganda Agreement. That Agreement is a human document, and like all earthly things it is not perhaps in every way perfect, but it is a bargain and a guarantee and it will faithfully be observed by both sides."

" The Chiefs who are gathered here today need have no fear that it will be encroached upon or melted away, so long as they themselves and the people of Uganda faithfully adhere to their portion of the contract. Under that Agreement

- Agreement all their rights and liberties are guaranteed,
- and all their lands, possessions and ancient privileges.
- Under that Agreement they may preserve all their old
- race and simplicity of their lives which has always so
- honourably distinguished the Baganda people.

29. It therefore appears that the Uganda Agreement, whether it can be called a frankenstein or not, cannot be waved aside, but must invariably receive full consideration when matters in connection with the Protectorate are being considered. A further extension of Agreements on the lines of the Uganda Agreement has never been contemplated, as suggested by the Governor of the East Africa Protectorate, by any responsible Officer.

30. Clause 4 of the Agreement provides that the revenue of the Kingdom of Uganda collected by the Uganda Administration will be merged in the general revenue of the Uganda Protectorate. Repeated assurances have been given to the native government that none of the money collected in the country will be applied outside the Protectorate. It appears, therefore, that ^{if there was an amalgamation might} serious difficulties ~~may~~ arise when this Protectorate is self-supporting, as it is hoped it soon will be. Should there be any balance, any such balance could not be applied to the purposes of the East Africa Protectorate, and it is submitted that this undertaking could not properly be evaded by applying money which was raised in parts of the Protectorate not governed by the Uganda Agreement to purposes outside the Protectorate and at the same time applying money which was raised in Uganda itself to the purposes of the rest of the Protectorate. The matter is one upon which it appears desirable to

have

21.

have the opinion of His Lordship's Legal Advisers.

31. I desire to state finally that I have considered the question of amalgamation from the point of view of its probable effect on the prosperity and efficiency of this Protectorate. No doubt the Governor of the East Africa Protectorate has considered the question mainly from the point of view of its probable effect on the prosperity and efficiency of the East Africa Protectorate. It is for His Lordship to decide whether amalgamation is to the advantage of both Protectorates, or whether it is to the advantage of the one and the disadvantage of the other. In the latter case, His Lordship will decide whether the interests of the one Protectorate should be sacrificed to those of the other. He will also decide whether it is legally possible.

I have felt it my duty, with the greatest respect to the Governor of the East Africa Protectorate, to bring before His Lordship without, I trust, undue emphasis, the reasons which I consider show that amalgamation would make neither for efficiency, nor economy, nor prosperity in the administration of this Protectorate.

Government House,
NAIROBI, British E. Africa.

Confidential.

13th November 1909.

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4 DEC 09

My Lord,

I beg to forward herewith -

- (1) An Interim Report upon the administration of British East Africa:
- (2) In accordance with your despatches Confidential of 24th September 1909, a Report upon the Uganda Protectorate:
- and
- (3) The paraphrase of a cypher telegram forwarded to you on the 13th November.

29923
8/11/09

The reports are confined mainly to administrative questions, and certain recommendations are made which I trust may meet with your general approval.

2. I am firmly of opinion that the recommendations with regard to East Africa will tend to produce more efficient government. It may be desirable to vary them in detail, but the broad necessity of strengthening the executive is of urgent importance. I favour the inclusion of Uganda as a separate protectorate, and have attached my reasons therefor and recommendations to carry it into effect.

I would desire to place on record my appreciation of the very good assistance given to me by Mr. Boyle, the Acting Governor of the Uganda Protectorate.

This

H. M. PRINCIPAL SECRETARY OF STATE
FOR THE COLONIES.

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2.

This Officer spared no pains to place me in possession of all evidence, documentary or otherwise, necessary for the compilation of this report. Subordinate officials of Government were equally helpful, and the Acting Senior Judge of the High Court, Mr. Carter, gave me the full benefit of his experience.

3. Though I am persuaded of the necessity of strengthening the East African Administration and inclined towards amalgamation of the two protectorates, I ~~do not~~ desire to accentuate the desirability of creating an export trade by every means in our power. However efficient the administrative machine may become, it will not satisfy the country or its wants if the economic situation remains in its present condition. I would therefore place the policy of creating an export trade, by the grant of a free hand in dealing with coastward ^{freight} rates, as of first importance to the Protectorate. As I have pointed out in my cable, it is monstrous to allow 25,000 tons of empty waggons to go coastwards because farmers cannot produce crops to fill them owing to the high rates which prevail. Mealies today are worth from £5. to £6. in the British markets; wheat £7. to £8; Ground nuts £10. These might be our staple exports and for ~~into~~ ^{into} thousands of tons per annum if rates even approximating to those of all the South African Governments were granted.

An export trade on an agricultural basis must be the keystone of eventual solvency, government or public, in the Protectorate, and I repeat that upon no other policy shall we establish peace and contentment in this country.

3.

4. Your Lordship will be aware of the fact that any of my recommendations are made after very complete deliberation and examination of facts. The administrative and economic changes proposed are far-reaching if not drastic, but in so far as East Africa is concerned the situation demands them; it demands even more - a somewhat freer hand than usual to accomplish them. For the moment all parties in this country have sunk their differences with I think the general desire of helping the Government. Should it be found impossible to institute genuine administrative and economic reform, government will become even more difficult than in the past.

It has been my endeavour to as clearly as possible emphasise existing disabilities which should be immediately removed or ameliorated. It only remains for me, with all respect and deference, to state that I would hardly be failing in duty, if I asked to be relieved from the charge of government if such genuine reforms are to be indefinitely delayed, or latitude in their application denied.

I have the honour to be,

Your Lordship's humble

devoted servant,

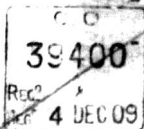
G. P. ...
GOVERNOR.

Enclosures.

- (1) Interim Report upon E.A. Protectorate.
- (2) Report upon Uganda Protectorate.
- (3) Paraphrase of Telegram on Economic situation.

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End of 95
Private & Confidential.



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INTERIM REPORT ON BRITISH EAST AFRICA.

It had been my intention to defer any report upon the conditions of government in this country until such time as I had been enabled to visit the outlying districts and settlements and considered land and agricultural subjects; the situation, however, compels me to forward to you this interim report containing my general impressions of the administration and the policy, and some immediate recommendations.

The Report is based upon my own general deductions after as close a study as possible of the records, consultations and enquiry from the executive, a series of meetings with the Provincial Commissioners (whom I assembled for the purpose), discussion, in so far as was deemed advisable and necessary, with Lord Delamere and the unofficial members of the Legislative Council, a meeting of the Council, and finally upon meetings with all heads of Departments for consideration in detail of the proposed Estimates for 1910-1911.

(I) - P O L I C Y -

I primarily directed my efforts to obtaining a knowledge of the policy of the Protectorate. After a close perusal of any documents which could be placed before me, I was reluctantly forced to the conclusion that there was an utter absence of any defined policy whereby I could take up the work of my predecessor and ensure continuity of effort and direction. Nor could I find any compilation of administrative or Service regulations

(2)

Policy.

regulations. It is hardly necessary to state that steps are being taken to remedy the situation.

I could not but contrast the situation with that of Northern Nigeria when I assumed the Government in 1907. There I found a clearly defined and printed policy, covered by a series of admirable political memoranda and a thoroughly worked out and published series of Government Standing Orders. I would not say that this procedure is entirely applicable here, but there is a great difference between the foregoing experience and the necessity of attempting to grasp the policy of the past by a perusal of the Secretariat files and Annual departmental reports - unless it is urged that in the agglomeration of local enactments and amendments spread over nine years, is to be found an indication of policy. These laws are set forth in seven printed books and each law may be spread over the whole series, to which there is no general index. No attempt whatsoever appears to have been made to consolidate the statutes, and combined with the above legal labyrinth there are Indian laws to the number of twenty-seven upon such subjects as Lunacy, Penal offences, Marriage, Probation, Posts, Divorce, evidence, contract, Criminal & Civil Procedure, Railways, &c. I have attempted to plough through this mass of legislation, and have, in an attempt to grasp them, collated the laws from the seven beforementioned volumes, deleting those which had been repealed, but have not been enabled thereby to extract any very definite general policy with regard to White, Native or Indian.

(3)

Policy.

(3) For the White settler, the burning policy for the moment is that of tenure of the land, this is still unsettled. To expect any of them to discover how they are being governed by a perusal of the existing book of law would be to demand a virtue young scientists do not seem to be possessed of, lasting patience and deep research.

(4) For the native, no general policy has been laid down except that which is nebulously outlined, in the new Land Act, with regard to his tenure of land. The law has however produced or created two very patent and extraordinary positions for the native populations.-

Too early and unconsidered a transition from the conditions inseparable from the abolition of the legal status of slavery, has more or less broken the power and usefulness of our most highly civilised native rulers, the Arabs of the Coast strip. I will further refer to this situation created when discussing the question of Surveys.

The second position is that the High Court of the Protectorate is to a certain extent the dictator of native policy, not only in those portions of the Protectorate where white and native and Indian mingle, but in the native reserves themselves. There is in consequence difficulty in the native administration of the reserves, and if the situation is not remedied early, the tribal system will be difficult to maintain.

There is this amount of general native policy in the Protectorate, native reserves have been recognised under tribal conditions as to land tenure, the natural secretary

(4)

Policy.

is to rule these native tribes according to their own laws as far as possible, and not to hurry them by forced marches into ideals totally foreign to the communal tribal interests and desires. The Provincial Commissioners have long urged this, and one and all at my meeting deplored existing conditions. These are men of long experience of both Uganda and British East Africa, some of their appointments dating back fifteen years. At their last conference they unanimously asserted their opinion that the Protectorate native policy was on wrong lines and might lead to grave disorder. Their recommendations were referred to the principal Judge of the High Court, and I append for your Lordship's consideration his report upon their proposals. They are in substance the same as those which Sir. F. Lugard adopted so successfully in West Africa - views which I think have the acceptance of nearly every leading authority on native rule in Africa. I instructed the Commissioners to again submit their views in a special memo. which is appended.

There are not lacking advocates of the necessity of breaking down native rule, the underlying aims being the opening up to anyone of all the lands of the natives, and the controlling of labour by enforcing the dignity of its being at their beck and call. These spirits are I think the unthinking, or those who would sacrifice the whole future to their own immediate gain.

The High Court, acting entirely within their existing rights, appear to think that if they administer British law to all the natives and have full con-

(5)

Policy.

control over every action between natives, the latter will secure greater benefits and justice, and be subject to less oppression than if the powers of the chiefs is kept up and reasonable native law and custom enforced. They in fact substitute, for a power and law which the natives cherish and have been accustomed to, the British law or Indian, and use as their medium a Native Police totally unacquainted with, and not expected to know, native law and custom.

All our experience in West Africa and Uganda, in fact in native countries, points to successful native administration is purely native States or Reserves being based upon the use of native administrators and their law where not repugnant. Police forces, recruited mainly from that native element which has the thinnest of European veneers with its attendant disadvantages, become too often, in an attempt to apply British law - a medium for extortion and oppression far more oppressive than the rule of a native chief guided by British Residents. The Chief may at times, not attain our ideals, but he is at least one of themselves, and deals out his rough and ready justice in accordance with traditions which may have existed for years.

It appears to me essential, if tribal organisation is to be maintained, and its retention and only gradual improvement must be a basic principle in native rule, that native law and custom be administered in so far as possible. The chiefs, under the guidance of British political officers, are best suited for its evolution

towards

(8)

Policy.

towards higher ideals, and as in West Africa, appeals should take more cognisance of native law than British in those cases where political considerations are dominant. It is quite impossible to hope for an equitable balancing of opinions, as to native law and custom and policy, from the Judiciary alone. Such is not their function,

I have since found a similar condition of affairs in Uganda and the same complaints from the Provincial Commissioners. In my report on Uganda I suggest a compromise which I think will meet the situation.

(5) For the Indian much has been done, and of all the native races he is the first to have representation in Council. I recently cabled to Your Lordship on this subject and much regret it could not have been referred to me prior to my departure.

The Indian community are feared by white and native, for differing reasons. He holds the Arab & Swahili with his freehold coast tenure, in the palm of his hand, and should the native be granted individual tenure, would secure the same hold in the uplands. My experience of the very difficult and complex problem his presence creates is not sufficient to justify me in dilating at present upon this important subject. His presence in our existing financial condition makes government possible in that he provides the subordinate staff of nearly every department. It is urged that the white man could be substituted for him, but of the success of any such policy I have at present the gravest doubts, much as it appeals to me.

Policy.

Policy with regard to the Indian problem has apparently not been deeply considered; it is in fact more hazy than in the case of native or white.

(II) - FINANCIAL POSITION.

I would not propose to go into the details of this in the present report. One interesting factor in considering the position has been roughly estimated - the relative contributions to the British East African revenue by various communities, etc. -

For the current year it is thus estimated:-

	£.
Uganda & German E. Africa	200,000.
White population, E.E. Africa.	100,000.
Native population	200,000.
British Taxpayer	<u>138,000.</u>
	£638,000.

Balance from excess of assets ?

Of the Railway revenue, a total of £227,000, the following is a fairly accurate estimate of source:-

	<u>Coaching Traffic.</u>	<u>Goods Traffic.</u>
Source of Revenue.	£50,000.	£157,000.
B.E.A. European	48	13
" Native	27	22
" Government	-	6
Railway material	-	5
Uganda	20	32
German E. Africa	5	22
	<u>100.</u>	<u>100.</u>

It is difficult to separate the Coaching traffic of British E. Africa by communities.

(8)

A point of interest is that German East Africa contributes about 17% of the Railway revenue and Uganda 30%; - the joint contributions amount to about 60% of the Railway expenditure.

(III) EXECUTIVE, JUDICIAL, LEGAL.

The lack of a strong Colonial Secretary in the Council and out has I think been responsible for many of the troubles of the Protectorate, and the Governor pestered in consequence by many minor questions which should have been decided elsewhere, has had less time to devote to main problems and the evolution of political or administrative policy.

(a) The Legislative Council, from an experience of one meeting, appears to be an invertebrate body, and requires strengthening both officially and unofficially. Owing to the number of departments in the Protectorate, many have no direct representation in Council, a very grave disadvantage in debate.

The Government element not unfrequently divides on subjects of importance, and there has been wanting a strong lead. It is not politic to my mind that this lead should in council come from the President himself. In a community such as I gauge this one to be, this line of action might create situations in which the Governor could not allow himself to be placed.

The policy must come from him and his executive. What is wanted in Council is a strong exponent of these views, viz: a Colonial Secretary.

(b) Secretariat.

The Secretariat today is weak numerically for

such

such a country and its many problems, and does not command the respect it should. It never will, to my mind, until a strong personality in the guise of a competent Colonial Secretary takes it in hand. I have no doubt of the loyalty and devotion to duty of the existing staff.

(c) Judicial & Legal.

The Bench as a body is I fear somewhat discredited. There is every necessity for strengthening and even leavening the Judiciary. My experience of the principal Judge is gained from the report I forward.

Judge Barth impresses me as an able and conscientious man who will be of every assistance. The Law department is none too strong for the many difficult questions we have before us. The senior officer is a charming person, but of no large colonial experience; his junior is reported to be incompetent.

Neither Judiciary or Law Department appear to have done any serious work in the very necessary codification of the laws or in the removal of the anomalous situations created by the application of Indian enactments unsuited to the white or indigenous inhabitants.

(d) Provincial Administration & Political Staff.

I have had a conference with five out of seven of the Provincial Commissioners, the two who could not attend being from Jubaland and Tanaland provinces of comparative unimportance in gauging administrative conditions. The five summoned could be assembled in here in three days, which emphasizes the position as to lack of policy in a country where such excellent communications obtain and can allow of frequent

conferences

(10)

conferences with all executive officers.

The Commissioners strike me as an intelligent body of men, but they have apparently never had any guiding general policy laid down to secure common action or continuity. Consequently policy has varied with individual idiosyncrasy. Administratively there has been little guidance, and the method adopted for hut tax collection and record, or for the general records of provinces or districts, appears to have been left to personal originality. In these five provinces there are practically no out-stations more than four days from headquarters.

I primarily and purposely visited one of the oldest provincial offices in the Highlands, and cannot say I was greatly impressed by the records maintained. I have also had opportunities for meeting junior officers and of inspecting one district in detail.

The main cause for this state of affairs is to be found in the lack of fixed political or administrative ideals, but there have been other contributory causes. In the native reserves the Commissioners have been unnecessarily handicapped by the High Court. The Police told off to the provinces have not been directly under their control for many years. Some of the senior staff are in the opinion of all five Commissioners hopelessly incompetent; some have been reduced in grade; and at least two are known to be habitual drunkards. One has been removed to Nyassaland under circumstances I need not refer to, and the conduct of another is now being investigated under circumstances I could not believe possible in a British Colony or Protectorate.

(11)

I would not in any sense imply a wholesale condemnation; as I have said, the Commissioners I have met impress me favourably, but in esprit de corps or loyalty the staff generally do not compare with others I have known, and I have been struck in perusing reports and correspondence, with the spirit of fastidious rivalry and even disloyalty which animates some members of the political staff. Winnowing is imperative, and should be ruthlessly carried out, but above all continuous policy must be established, and harmony and co-operation engineered.

I have already found it necessary to recommend the retirement of one senior officer, and can only hope Your Lordship will realize that in any early action in this regard I have been guided by the counsel of the executive.

I have thought it wise and desirable to request the Lieut. Governor and senior commissioners in Council to assist me by frankly declaring their opinion as to incurable incompetency or other gross failings, and must say that they have apparently allowed no personal feelings to actuate them in tendering advice.

(IV) DEPARTMENTS

(a) Military & Police

The existing Military & Police forces are:-

1600 Kings African Rifles, costing	250,000.
2300 Police	53,000.
3900	193,000.

The territory actively administered is about 100,000 square miles out of 220,000. The native

Government

(12)

Governments, such as they are, take no active part in policing.

Northern Nigeria, which has a more difficult military situation, has:-

3400 W. A. F. F.

700 Police.

4100,

the actively administered territory being about 200,000 square miles. The Mohammedan native Governments police their own areas.

The military situation must be characterised as particularly safe, and possessing almost unrivalled communication throughout the closely administered portions. Five of the provinces are along the railway with none of their out-stations 48 hours from it for forced marching. The Tanaland province is 24 hours steaming from Mombasa, and Jubaland three days from Mombasa. In Jubaland and along our northern boundary lie the bulk of the unadministered portion of the country. There is little to be feared from any combination of the native tribes within our administered areas, though differences with a particular tribe might arise. The northern frontier has hitherto been watched by a British agent from Adis Ababa, who has just been relieved by your orders by a British East African officer. In this regard I have read with interest Gwynn's report to the Foreign Office dated and his conclusions. I am addressing you separately on the subject.

My conclusion, and that of my advisers, is that the only serious military situation which can arise is in the north from our own Somalis, the Tigrae hunters from Abyssinia, or from Abyssinia itself on

(13)

the death of the Emperor Menelik.

*That is hardly
what they are
maintaining
for*

Today the bulk of our military Force is absent on Somaliland duty, apparently at the expense of the Protectorate. Normally they are mainly concentrated in Nairobi, where six companies out of a total of eight are stationed. In Northern Nigeria, with a somewhat dangerous position as to the possibility of a rising and combination of the Mohammedans forming the bulk of the native inhabitants, we had 21 companies to deal with the situation. Of these, six were stationed at a maximum at the depots Zungeru and Lokoja, and 15 were spread out in companies or half-companies over the whole Protectorate, and frequently from 15 to 30 days march apart.

In British East Africa, Bombay and the Indian Army are only ten days away: the Aden garrison six and Zanzibar two. There is moreover a British Volunteer reserve of 400 men. In Northern Nigeria the nearest reinforcement was the two weak battalions in Lagos and Calabar, until recently 20 days distant from Zungeru, and the Gold Coast & Sierra Leone West African Battalions - 20 to 25 days distant.

Moreover the situation in Nigeria was rendered all the more difficult from the fact that the bulk of the troops were drawn from the communities which might combine against us - the Hausas, Ibos, and Nupes. In British East Africa the bulk of the troops are Sudanese or Yaos, Angoni, etc., who have no sympathies with the indigenous inhabitants.

It is only this year that the troops have in any way come into touch with our unadministered areas or

northern

northern frontier, and the policy pursued generally does not tend towards the security of administered areas or a reduction of the Police force, which is very large for the country under control. The military forces do not give the assistance in the carrying on of the civil administration as I have been accustomed to witness, and I regret to say that a feeling obtains amongst provincial officers that there is a desire, on occasions when quartered at out-stations, to accentuate political situations in order to necessitate reprisals. Such views or desires have, I trust, become past history in British West Africa, and it will only be by a wider distribution of the troops here that it will be possible to eradicate such ideals if they exist.

It has been suggested that the whole of our Colonial Military service might be increased in efficiency by the establishment of a Colonial Staff Corps on the lines of the Indian Staff Corps. There are, I believe, today over 500 British officers directing the Military forces controlled directly by the Colonial Department. It appears to me that the suggestion has many merits.

Wider distribution of the troops is necessary, and will result in bringing under control, or, at least, means the whole population; it would allow of the troops being more actively employed, and permit active administration on our northern frontier without entailing the creation of dangerous situations with our northern neighbour. - In fact dangerous situations may be engendered if we do not obviate them.

Incidentally

Handwritten notes in left margin:
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(15)

Incidentally I think large savings in the Police will accrue. I do not wish to indicate that Police duties should be imposed upon the K.A.R., but at present large bodies of police are being maintained in certain Provinces as "garrisons", and this is a duty I consider should devolve on the Military forces. The northern frontier districts might with every advantage today be carried on by semi-military administrations. Their occupation will not justify the usual large civil outlay entailed here by the establishment of a purely civil province, and is moreover one more of military necessity than civil development. I have further considered the Defence question as a whole in the Uganda Report.

I may say in conclusion that the bearing of the troops I have seen, very few in number, appears to denote a very satisfactory condition as to training.

(b) Police.

The Inspector General of Police has submitted a scheme for the reorganization of this force. Captain Edwards has based his reorganization upon existing conditions of the force and not upon the general policy of the Protectorate - of which he could not be ignorant as it was largely existent.

My previous remarks upon the condition of native administration will not allow of my accepting this fresh reorganization until I have gone into the whole question of policy and further reported to Your Lordship. The Inspector General's Report emphasises the somewhat purely military character of the force, and

labours

labours in the production of details of drill, musketry and etiquette. We already have such details worked out for the K.A.R., and it would appear possible to have laid down a shortened or amended course of instruction for the Police without the production of special drill and musketry manuals.

I have been much impressed with the bearing of the Force, though I know little as yet of its internal organisation or detailed working.

(c) Public Works.

This department I propose to report on in detail at a later date. My impression is that it is over-staffed, and that bearing in mind the good communications here, the cost of supervision is extremely high. For 1909-10 the supervision of actual buildings, roads, &c. constructed, I estimate at about 40% of the works to be executed.

(d) Agricultural Department.

The expenditure creeps up £5,000 to £10,000 a year. This is a necessary - but in itself practically non-revenue earning - department affecting our expenditure each year. It works almost exclusively for the white population of the highlands.

The head of this department, though of undoubted ability and energy, is inclined to strongly oppose any curb on his schemes or expenditure. He is strongly antagonistic to the Land Policy as laid down by Lord Elgin and confirmed by Your Lordship, favouring quit-rents.

(17)

I was somewhat surprised to find, in meeting the first set of farmers at Kyambu - some 40 in number - that the expenditure upon this department, or the method of expenditure, was not considered satisfactory. The department is of such a technical character that the executive cannot criticise it. As in other countries it would appear advisable to bring in the collective opinion of farmers by the institution of local and general councils of agriculture. I would not propose to subvert the department to the whims of individual settlers, but collective opinion would have weight, and if sought would assist the executive in arriving at proper conclusions.

The Veterinary Branch is, according to nearly all I have consulted, effecting much in controlling the spread and introduction of disease. Objected to at the outset by some unthinking stock-owners, its good work is I think now fully appreciated.

(e) Post Office & Telegraphs.

It is difficult for me to at present gauge the efficiency of the Postal Services, but for the length of time we have been in occupation of this country the telegraph system strikes me as wanting along the railway, as badly equipped and hopelessly inadequate for efficient administration. Leaving out of consideration the Railway telegraph line, the entire length of telegraphs is 400 miles. Northern Nigeria has 2400 miles of Post Office telegraphs.

(f) The Forestry Department.

A very much overloaded and expensive department.

Its

(18)

Its policy, if continued, will involve very large further expenditure which I cannot think is justifiable in the condition of our finances. Today its head-quarter staff is costing £3,000 a year, five years ago the total cost was £5,000. For 1910-11 it was proposed to spend £15,000, this I have been obliged to cut down to last year's figures.

If the policy had been to preserve our existing forests it would meet with my entire sympathy. In a pioneer country this could best be effected by a small central inspecting and surveying staff and some foresters under the Provincial Commissioners, who are the best medium of preventing forest destruction by natives.

Instead of modest foresters cottages (I should have expected to be built by the experienced foresters themselves as I have witnessed in Canada) 8-roomed, double-storied houses are being constructed all over the country. Instead of a policy of holding on to what we have, there is substituted one of most elaborate survey, afforestation, nurseries of fifty or sixty acres, and an equipment and staff which no pioneer country could possibly maintain if it was governing itself. I am unacquainted with the Chief Conservator, but as I pretend to be a Forest expert, but must stigmatise the present inflated condition of this department as being quite above the powers of the Colony, and in this view I have the support not only of the executive, but of everyone of importance - official or unofficial - I have consulted up to now.

I must without any hesitation recommend that Forestry should be abolished as a department, and be placed under the Lands Department. There should be

(19)

ensue far larger savings than those which will accrue by the abolition of the Chief Conservator's office, without any fear whatever of less efficiency in the preservation of our existing forests.

I have gone as carefully as possible into this department's working and finance, and trust I may receive approval of this recommendation which I have already cabled. ⁺ Failing support, it will be very difficult to go on with necessary and possible economies in other departments whose overexpenditure is in no way so patent to both public and official.

I would in no sense desire to convey censure on Mr. Hutchins, except in his building programme, which is far too extensive. Otherwise he has not unnaturally attempted to make as good a Forestry Department as money would allow, or up to the scale he could extract money for. My view is that the scale and scope of the department in this young country should, after the care of existing forests is assured, be a very modest one.

£15,000 on Forestry appears grossly excessive when we are only spending £4,000 on Education, £10,000 on Hospitals, and £24,000 on all Extraordinary Public Works.

(g) Survey Department.

Trigonometrical Survey. Apparently a luxury in our present financial condition, it will prove to be of incalculable benefit in accurately determining the boundaries of farms. It should not at present be extended beyond the areas likely to be taken up for settlement

(20)

settlement or plantations. This area will be probably covered by the survey in two years time.

Cadastral Survey is now ahead of requirements on the Highlands. The situation as to titles in the Coast strip is deplorable and must be remedied at once. For this purpose a Recorder of Titles has been appointed, but failing surveys, has accomplished very little. It was estimated that the net cost of the Surveys would be £1,000 yearly, but I am of opinion that it will amount to more like £7,000 to £8,000 for three years.

The difficulties of the position have been accentuated by too early an abolition of slavery. The whole coast is held in freehold and the slaves knew the boundaries of their masters' properties. The slaves have now been dispersed, the masters are largely ruined and their land titles in a state of chaos. If the position is not remedied early, there may be trouble with the population of the coast strip. Had some of the money devoted to Forestry been applied here, we would not be placed in such a bad position.

On the Highlands I think qualified Land Surveyors should be encouraged to carry on cadastral work and our own Cadastral surveyors devote themselves to the Highlands. They will not suffice in themselves and I have given an estimate of about a considerable sum on next year's Estimates to meet this urgent requirement of the Protectorate.

(H) Education.

There are many reasonable appeals for further facilities in education. Professor Fraser from India

(20)

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(h) Education.

There are many reasonable appeals for further facilities in education. Professor Fraser from India

has

(21)

has sent in his report, and I am acting on it so far as the financial position will allow.

(i) Prisons. -

An uneconomical organisation which requires to be overhauled.

(j) Railways.

This Department has been accustomed in the past to consider itself separate to the other Government Departments, and has consequently been slightly out of hand. It is well organised and apparently ably managed.

Considerable reductions in working expenditure may be expected in consequence of the monies to be voted for the Magadi scheme. The rolling stock is hopelessly antiquated and uneconomical working results.

The Department is quite equal to the task of carrying on any extensions necessary in the Uganda Protectorate, and will do so with great economy in the Estimates. I have every confidence in its continued good working, though I have not been into details as yet.

(v) GOVERNMENT POLICY

The general ideals that I am working upon in the production of a reasonable Government policy are:-

(1) Administration.

The production of a strong administrative machine.

Whether Uganda is administered or not, the East African administration will not secure confidence un-

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unless it is strengthened and purified.

I would not propose to sacrifice the interests of Uganda to those of British East Africa. By amalgamation we can certainly secure stronger machinery for both and considerable savings, and the work of the two as one will not increase, but lessen, the labour of the central administration - in the sense that it will allow of a strengthening of the machine. The communications of the two countries are such that any important administrative centre can be reached from Nairobi in five to six days. This seems different to former experience, where the three most important centres - Sokoto, Kano and Bornu - were 14, 18 & 40 days away.

My views as to the wisdom or otherwise of amalgamation may become considerably modified after an inspection of the country. The remarks that I make herein with regard to it refer more particularly to the general advantage which might accrue in administration.

(2) Native Policy.

Here I lean, on all African experience, towards the use of native chiefs in the administration of pure native States in either British East Africa or British West Africa. Law & custom, native courts, and the general administration of our British East Africa have been evolved, excepting in certain original and essential matters which we cannot, even at the outset, leave to the discretion of native courts. Such a policy would have the support of a large section of people and of influential bodies at home. It will allow of a strong front against the imperilling of

legitimate

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legitimate and native interests and rights.

At the same time due examination should be made as to the legitimate area which these reserves should occupy. I understand that in Uganda itself certain portions of the country are now being given up as Crown Lands, being in excess of native requirements, and I have yet to be persuaded here that the Native reserves are not too large for the numbers - with all due regard to expansion - which are now placed upon them.

(3) White Settlement.

(A) Government.

It would appear not only essential, but in all interests, to allow of more active participation in government, particularly county or local government. The first necessity in attaining this appears to be the production of a more clearly defined area devoted to settlement.

At present the white settlements, as outlined on the map, have the appearance of the patches on an old-fashioned "crazy-quilt". Nevertheless they lend themselves to amalgamation, though necessarily and advisedly not into one province standing by itself, for obvious reasons as to administration and dealings with the native tribes which will surround any such area. Given more clearly defined areas for further expansion (which can be effected without in any way affecting defined native areas) it will be possible to give the inhabitants more duties in purely local government.

A start has been made with the J.P. Ordinance, but we may in due time go further by the establishment of Divisional councils or some analogous bodies. We

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have allowed the urban populations more active participation in local government, and it is highly desirable that the settler should himself feel the difficulties of government and the weight of the Courts in the revision of J.P. sentences.


Apart from purely local government, the real settlers, i.e. - those who intend to make a home in this country, should in my opinion have more voice on the Legislative Council and I think, as outlined previously, the farming community should constitute an advisory body with the Director of Agriculture on agricultural matters, in imitation of the Land Board and of the practice of other colonies.

As I have said before, the Executive cannot hope to be technically acquainted with the details of all departments, and mistakes will be made in policy if they have to obey the dictates of any one man when there is a body of competent opinion to consult. This was formerly accentuated in the case of Railways and Public Works - a position which is perhaps obviated for the moment by my arrival in the country. In Lands and Agriculture, however, we can always be sure of sound outside advice to guide us in Council.

(b) P o l i c y.

The people should be taken more into our confidence as to the policy which has been approved. It may be, as I have shown, that their presence at present is not of great financial assistance, but they will demand fuller recognition and should obtain it. To keep them completely in the dark, and to rarely, if ever, explain the financial position of the Colony or the aims of the

the



the administration, is only productive of grossly exaggerated figures as to their financial weight as a community and perverted statements of the policy of the Government. Like all other young colonies, comment in any sense can do no good whatever, and on the other hand - as has been patent from the past here - can do an infinity of harm.

(c) Land Question.

This is at present hung up pending my report on the Crown Lands Ordinance. I have cabled to your Lordship asking if Government is to strictly adhere to the policy of sharing in incremental values in keeping down the accumulations of land - the latter a very difficult matter.

It will not be possible for me to report upon this large question until I have had more experience of the country and had opportunities for meeting those inhabitants who are more particularly concerned. The settlers are, I gather, quite reasonable in their attitude, and Lord Delamere himself, as a votary of leasehold, will I trust be of assistance.

(d) Law.

The demand for a British East African Code can and ought to be conceded, but a strong Judiciary & Law department will be necessary to carry through the mass of legislation required.

(VI) CONCLUSIONS.

I regret to have to report so adversely on the administration, and trust it will not be thought too unconsidered

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unconsidered or pessimistic. The ease of communication here, the concentration of all Government departments at Nairobi and the possibility of quickly assembling my principal provincial executive officers has allowed of my forming earlier impressions of Government and its policy than was the case in Northern Nigeria. There, moreover, I found a clearly laid down and printed policy and Civil Service regulations, Consolidated laws and complete harmony between judiciary and executive - finally a very loyal, disciplined and enthusiastic staff. So complete was the organisation and so clear the policy and administrative regulations, that I cannot call to mind any condemnation on my part of general policy, or waste, extravagance or incompetence of any Government department. Distances however were great, and it was not for some time that I thoroughly realised the efficiency in working of both the Administrative and Judicial machines and the suitability of the executive policy.

Here, owing to the concentration mentioned, it is possible to form more rapid opinions. General policy is practically non-existent; nothing has been done in the collection of the Law or of administrative regulations; the various provincial questions are at variance with the Provincial Executives. The Departments and staff as a whole reflect the above. They have been subject to much criticism, at times unreasonable and unjust, but their condition makes it probable that some of their demerits are justified by facts.

The situation is not a pleasing one, and will demand much close attention and the pruning knife. I trust when I shall have been able to assess the situation

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situation in detail, Your Lordship's support in my detailed recommendations will be granted.

I write in no spirit of depreciation, nor do I make comparisons in order to extol the government of a colony I have only just relinquished. In neither have I been personally responsible for the foundations of administration and government. To both I have come as a witness of conditions. The first had established finally an efficient, loyal, disciplined and self-reliant government; the other I cannot be persuaded to be in the possession of attributes so essential to progress in, or contentment with, its Government. In the one, policy and administrative regulation is extant and fecundative; in the other, obscure or non-existent. The results are reflected by the efficiency of the administrative machine in the one and its disorganisation in the other.

(VII) INTERIM RECOMMENDATIONS.

I have delayed any final interim recommendations as to British East Africa in consequence of the instructions received to visit and report upon Uganda and the advisability of its amalgamation. This I have not been enabled to effect, and am forwarding a Report herewith.

Whether an amalgamation is decided on or delayed, the necessity remains for strengthening the Government of East Africa. It will be quite impossible to go forward into the evolution of policy unless there is a stronger and more efficient administrative machine to back it up. I beg to recommend for consideration

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the following new appointments for East Africa or the amalgamated colonies:-

- (1) A Chief Justice.
- (2) A Colonial Secretary.
- (3) An Attorney General.
- (4) A Commandant (on amalgamation).

The Chief Justice to be an officer of experience with natives, and if possible of a mixed community. The codification of the law to devolve on this officer. The salary to be at least £1200 per annum.

A 1st Puisne Judge at £1000. and a 2nd Puisne Judge at £800. Should Uganda be included, two 1st Puisne and two 2nd Puisne Judges.

The Colonial Secretary to be an officer of high colonial experience in Crown colony government, Native Affairs and Legislative Council work. To attract the right man a good salary should be attached to this post - £1500. to £1700 a year is the least salary which could be proposed.

The Attorney General to be equally versed in Colonial Government and law, and to receive at least £1000 per annum, - to be assisted by a Solicitor General at £750.

The departments of Government to be organised as follows:-

I. COLONIAL SECRETARY & SECRETARY FOR NATIVE AFFAIRS.

- (1) Colonial Department Work.
- (2) Departmental Administration.

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- (3) Provincial & Municipal Administration.
(includes Native Affairs)
- (4) Game reserves.
- (5) Asiatic affairs.
- (6) Education.
- (7) Immigration.
- (8) Public Health.
- (9) Statistics.
- (10) Special Surveys.

2 II. ATTORNEY GENERAL'S DEPARTMENT.

- (1) Police & Prisons.
- (2) Registrar of Deeds & Titles.
- (3) Patents.
- (4) Legislation.
- (5) Magistrates.
- (6) Mines.

III. FINANCIAL COMMISSIONER'S DEPARTMENT.

- (1) Internal Revenue.
- (2) Customs.
- (3) Posts & Telegraphs.
- (4) Government Printing.
- (5) ...

2 IV. LANDS & AGRICULTURE.

- (1) Lands & Cadastral Surveys.
- (2) Agriculture.
- (3) Forestry.
- (4) Veterinary.

V. PUBLIC WORKS DEPARTMENT.

VI.

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VI. RAILWAY & MARINE DEPARTMENT.

- (1) Railways.
- (2) Marine.
- (3) Ports.

VII. MILITARY DEPARTMENT.

Executive Council.

- (1) The Governor.
- (2) Colonial Secretary.
- (3) Attorney General.
- (4) Commissioner of Lands & Agriculture.

Legislative Council.

The above and:-

- (5) Solicitor General.
- (6) Commandant.
- (7) General Manager of Railways.
- (8) Commissioner, P.W.D.

Unofficials: Lord Delamere, Messrs. Cowie, Baillie, Wilson, Jovanovic and two others.

The above would mould into a strong administrative machine. I must impress that reorganisation will not be merely half-measures, and that it requires, before we can go forward, a certain amount of freedom in effecting changes in our administrative system. The outline described is independent of amalgamation, but would suffice for its needs. It will involve no increase in the estimates, but will be met from savings. With regard to these, I would beg full confidence be placed in the administration in re-organisation of the Provincial Administration, the Military, Police, and other departments which under the scheme outlined will be amalgamated under general heads.

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heads.

The ease with which collective opinion and information can be gathered and the necessities of the situation, have emboldened me to put forward impressions and recommendations which could not have been gathered or suggested so quickly elsewhere. They may be varied in detail later, when with further experience of the country detailed reports can be furnished, but the particular lines indicated for the necessary strengthening in executive and judiciary, and the evolution of effective policy will not, I am persuaded, be subject to very material alteration, and their immediate evolution is essential to production of policy and the peace and progress of the country.


GOVERNOR.

Government House,

NAIROBI.

12/11/59

JH

MEMORANDUM ON NATIVE POLICY.

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With reference to the question of native policy which it is so very necessary to introduce as a basis of our administration of the tribes in East Africa, we, in deference to His Excellency's request, beg to submit the following further memorandum on the subject.

We would submit that the first thing to consider in this connection is the existing constitution of such tribes as we have to deal with, and to decide definitely what the exact position and authority is of the Chiefs or Elders, either individually or collectively, of each tribe.

Practically amongst all the tribes there is a system either more or less pronounced of some form of control. Amongst some it is by way of direct control by paramount Chiefs, amongst others such control is patriarchal. In the latter case the Government in this country originally introduced a system of selecting, from amongst the more important and influential Elders, certain men to occupy the position of Chiefs: at the same time those who already held such positions were encouraged to look after their people and to keep peace and order. Unfortunately, however, this system never became a recognised policy of the Government. Consequently it was liable to severe alteration and checks at the whim or prejudice of any one, i.e. while one Provincial Commissioner would base the whole of his administrative ideas on such a system.

system

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system, an Officer in another Province, or probably succeeding the former man, might reverse the procedure and attempt to rule his Province by a process of treating each native as an individual unit. Amongst civilised peoples the individual is responsible for the observance of duly constituted laws. This state of affairs, is however the result of the evolution of mankind after centuries of varying conditions of existence. Its adoption became possible only after the people by a process of education became thoroughly aware of their responsibilities as citizens of a state.

So long as the individual possesses no separate entity and his acts are practically the acts of a tribe or clan, then the tribe as a whole is responsible. Civilised communities have risen above this. In dealing with African savage tribes, we are dealing with a people who are practically at the genesis of things in this connection; and we cannot expect to lift them in a few years from this present state to that of a highly civilised European people.

The object we have in dealing with native tribes is to gradually lift them to a higher plane of civilisation. This can only be achieved by very gradual treatment, and by strictly observing existing conditions with a view to carefully improving them. Any improvement can only be accomplished step by step. It must be natural and come from causes within the body politic itself. Under a natural order of evolution one state succeeds another in such order and at such intervals that the people are ready for the change. When new conditions by such natural procedure replace the old, no dislocation ensues.

We can hardly expect that a savage now at the bottom of the ladder can suddenly place himself at the top without the help of the intermediate rungs; he must certainly climb. European civilisation climbed, and

therefore

therefore is there not all the more reason to believe it necessary for the African savage to do the same, and possibly more slowly. Yet some people would maintain that what has taken Europeans from the time of Caesar to A.D. 1909 to accomplish the African savage should attain in less than one generation. The evolution of races must necessarily take centuries to accomplish satisfactorily.

With all this it behoves us to decide definitely what our policy is to be with regard to the evolution of the races of this Protectorate. It is very obvious that we cannot start off with judging them according to our standards or in accordance with the conditions of civilized communities: at the same time, however, it is absolutely necessary to arrange matters so that an effective administration is carried on and peace and order maintained. How then can this best be accomplished having regard, as we must, to existing conditions? Even savage tribes have some form of Government, either, as has already been stated, through the medium of paramount Chiefs, or by patriarchal methods. The East African pagan tribes come within both categories. In the Chiefs, or in the Elders, is vested all tribal authority.

The policy of the Government should be to maintain the tribal authority. We consider that joint or tribal responsibility is the best safeguard for general social peace, and for maintaining desirable relations where black and white are concerned, and for the preservation of law and order in the country.

If we adopt the principle that where Land Tenure is tribal or jointly held or in any way apportioned out by the Chief, or according to tribal custom, there we hold that tribal responsibility shall be recognized, we shall not be far wrong; and, on the other hand

is held by the individual as a freehold, or where natives have moved away from the tribal control, we should hold the individual responsible.

Our main contention then is that the authority of the Chiefs and Elders should be maintained. We would add to this that in our opinion the policy should be to gradually bring their ideas on to civilised lines and to improve the general status all round.

Any policy to be intelligible and worthy of consideration must have a definite end in view. In East Africa the end we have in view is the uplifting of the native tribes, to make them useful members of society and a substantial factor in the economic development of the country. We cannot, however, hope to succeed in adjusting and controlling large native populations without some form of native civil administration. Such being the case, every endeavour should be made to utilise and improve the material already to our hand - i.e. the native Chiefs. When we originally occupied the country, it would appear that the intention of the British Government was to recognise the existing order. Many of the administrative officers have endeavoured to set up to the intention: what, however, with judicial regulations and rules creeping in and an utter lack of a definite native policy to guide us we have gradually been drifting on to the rocks of many misunderstandings, and towards a state of absolute chaos as regards native administration. This policy of drift should be ended and while there is yet time our course should be re-adjusted.

In our opinion we must support the authority of the Chiefs where such exists, and where they don't we must improve the system of patriarchal control. We should further endeavour by all means possible to improve any existing

existing system and gradually guide it into channels more on lines with civilised governments.

Always remembering, however, that any form of native law or custom, which is repugnant to justice and morality must be repressed from the very start. Active interest and supervision will be absolutely necessary. Care must always be taken to maintain the prestige of the Chiefs and native Councils, and for this reason we should undertake as much guidance as possible, so that any irregularities or undesirable customs may be checked before they grow into usage under our regime. Further this question should be maintained by allowing for all administration of native law to be dealt with by the executive officials of the Administration with His Excellency as the Court of Appeal. Given all this and we maintain that the desired result of a truly progressive native population, will be assured. Summarising the foregoing we would remark that the great danger we have to guard against in this and in other similar countries is that of disintegration amongst the tribes. There is always the danger of devolution by disintegration where new and civilised conditions become factors in the country.

On the other hand what is possible, i.e. supposing the power of the Chiefs &c. is broken and we set up the law of individual responsibility in its place what will be the results? The evolution of a people must be by some process of education, and such process to be natural and successful must be brought about by natural factors. It must be accomplished more by following and improving the existing machinery. As we have said, an uncivilised people must be subjected to a slow process of change, and even that the changes must be on lines which to them are understood. European countries have in most parts adopted during centuries some form or another of civilized law. Europe did

did not commence its march to civilization with steam engines and electric telegraphs: the introduction of the elements of civilization and quickened its results. In Africa we have come amongst a people who are to-day, if anything, possibly more backward than Europeans were at the time of the Roman invasion of Britain. At present we have commenced the occupation of the country with the building of a railway and the steam engine, we practically expect, and practically demand, that the native shall accept the 20th century as he has quite grasped the fact that the year one has run its course.

If the authority of the Chiefs or Elders, or any other form of control through the tribal system is allowed to become ignored by indifference or disuse, it will mean that we shall eventually have thousands of savages and semi-savages all acting on their own and making themselves a great danger to all kinds of society: the eventual outcome being their own destruction. This then in our opinion will be the result of breaking down any existing system of tribal control.

The retention of tribal control naturally means the recognition of the tribal system of law, improved possibly by our advice and by our seeing that nothing repugnant or immoral is allowed. Any and all natives will readily understand being administered by a system similar to their own, notwithstanding the fact that their own laws are improved. The present advanced state of civilised law in England and other civilised countries is only possible to-day because of the advance of Europeans in the scale of civilisation. This being the case, we cannot possibly expect African to come into line with us as regards the law, and we must be prepared to work out the salvation of the natives of this country by the building up of a policy based

based


based on their own administrative system. Accept this and we maintain that administration of the natives will be more effective. It will have infinitely better results both politically and economically and will be cheaper. Reverse the order by attempting to rule through the individual and chaos and ruin must follow.

Now in all this there can be no middle course, i.e. we cannot allow natives to leave the tribal authority and then dodge in between the white man's law and the law of his tribe. Therefore in Reserves native law should prevail less the power to deal with cases which under our law are punishable with death; when natives permanently leave the Reserves and become residents in towns or stations or on European land, they should come under European law.

Another important point in all this is that the tribes under the control of their Chiefs and Elders keep their women more moral, certainly as regards outside contact; generally speaking the tribes are jealous of the relation of their women with people outside.

RESERVES. While wishing to do everything possible to restore and maintain tribal authority we do not wish to keep the reserves closed. We desire to see as much trading intercourse as possible established and would encourage natives to leave their Reserves to look for work etc.

Trade should not be allowed within the Reserves, but roads and small areas for purposes of administration, trade and commercial development should be excluded from any restrictions dealing with Reserves. Indeed free access should be encouraged by the means as is the case in the Kisumu Province today.

Commerce

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Commerce must be the medium of increasing the wants of the people. This will teach increased industry which is a necessity to civilized life; and the greater the industry the more the possibility of the tribes reaching a higher form of civilization. Idleness in any form should be discouraged as it works disastrously on the individual and on the general community.

Sgt. John Ainsworth

Klamath.

October 2nd 1909.

Sgt. C. W. Hobley

October 11th 1909.

(2)

in the Congo and in this country, who successfully kept order under this system should regret the times that are gone when they were subject to no legal direction or control and were a law unto themselves. But I must confess my surprise that they have so little appreciated the developments and advance of the past few years that they should actually ask Your Excellency to revert to what may not inaptly be called 'methods of barbarism.'

In the year 1902 His Majesty the King by an Order in Council constituted a High Court and gave it full authority to supervise the administration of justice in East Africa. For the last six years the High Court has been endeavouring to do its duty in that respect and it is not unnatural that its interference, where interference was before unknown, has led to some soreness of feeling; but unless Your Excellency is prepared to recommend the amendment of that order and the curtailment of the powers of the High Court the country must be permitted to develop on the lines laid down.

The opinions expressed in these papers touch the feelings of discontent with the actions of the High Court which have recently been expressed by certain Officers of the Administration: and compel me to regard the question at issue, though euphemistically called that of a 'simple native code', as a direct challenge to the exercise by the High Court of its jurisdiction where natives are concerned. As such I welcome this opportunity of taking up the challenge, and am confident of the result, and that

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Yours

Your Excellency will have a hesitation in deciding ^{to} 194
 between upholding the authority of the High Court
 and the Government of the country by ordinary legal
 methods, or recommending an amendment of the Order in
 Council in order that Magistrates may be enabled to
 administer their districts free from the constraining
 authority of the law.

Your Excellency may possibly think that the
 suggestion of the Provincial Commissioners does not
 bear the interpretation that I have put upon it, and
 I will therefore ask what is meant by 'a single code
 for natives? A code of what? A Meesal code of general
 commandments, a penal code, or a code of procedure?
 The suggestion is so vague that it is difficult to
 say with certainty what is meant, but judging from
 the context and the remarks as to the penal code I
 infer that what is really intended is a code of
 general law ^{combined} with a code of procedure which
 would permit a magistrate to apply such general law
 in the manner he thought fit, without fear of the
 High Court interfering with his judgment on account
 of a "fault in the evidence etc."

The whole effort of the legislation in East Africa
 has of recent years been directed to unifying the
 system of law, of Courts, of jurisdiction and the
 forms of procedure, and to depart from this policy
 at the present juncture would in my opinion be a
 retrograde step for which there is no justification.

I entirely agree that some laws and more
 particularly complicated rules of procedure are not

of suitable application to the natives of Africa, and in this respect I would draw Your Excellency's attention to certain facts, references to which has been omitted, but of which I cannot suppose the Provincial Commissioners, the Chief Magistrate of the country, are ignorant.

In April 1902 it was provided by Article 20 of the Order in Council as follows:-

"In all cases, civil and criminal, to which natives are parties, every Court (a) shall be guided by native law so far as it is applicable and is not repugnant to justice and morality or inconsistent with any Order in Council or Ordinance, or any regulation or rule made under any Order in Council or Ordinance; and (b) shall decide all such cases according to substantial justice without undue regard to technicalities of procedure and without undue delay".

This article is still in force, and two years ago I took the opportunity of repeating it and of emphasizing the importance of paying attention to native law and custom in Volume I of the East African Law Reports, many of which was supplied to each Court in the Protectorate.

In December 1902 The Special Courts Amendment Ordinance was introduced and passed on the recommendation of the Judges. This Ordinance increased the jurisdiction of the local Officers so as to give them full powers including that of a death sentence in the case of natives, subject only to confirmation by the

High

High Court of sentences exceeding 6 months. Article 10 of this Ordinance provided that the Courts under the Ordinance should follow the principles of the Indian codes of procedure so far as the same may be applicable and suitable to the requirements of natives.

In February 1903 it being felt unsuitable that all Indian laws applied to the country should be indiscriminately applied to natives Judge Cator recommended the introduction of Ordinance 2 of 1903 which excludes the application of all such laws to natives except in so far as therein provided.

After an experience of five years the Special Courts Ordinance was found on the whole to have worked well, and the discretion with which District Commissioners and Assistant District Commissioners exercised their wide powers under it has been favourably commented on by me in, I believe, every Annual Report which I have had the honour to submit to Your Excellency.

It was, however, thought desirable when the Courts Ordinance was introduced last year after full discussion to remove all capital charges for trial to the High Court and to limit somewhat the powers of sentence by the most junior officers.

But this Ordinance, drafted by the Judges, again reinstated the provisions of the Special Courts Ordinance relative to the powers of native chiefs, and gave vitality to the Village Courts Ordinance which had been passed on the recommendation of the Judges in 1902 but had never been put in force.

Rules of Court were drawn up by the High Court under article 10 of the Ordinance instituting an organized system of native courts under the control of the Provincial and District Commissioners for the assistance of the local Officers in the administration of justice in the Country. 197

And finally, the High Court have also brought into force rules of the most simple nature to govern procedure in native appeals

(Rules of Court 3 of 1907)

This short précis sufficiently demonstrates not only the desire but the active steps taken by the Judges to simplify procedure in the case of natives, and a reference to those cases tried by magistrates in which the High Court has intervened and still more to those in which it has refrained from intervening would show that they have endeavoured to give effect in practise to the principles which they have recommended.

It will be observed that almost the whole of this legislation relaxing the manner of the application of laws to natives has originated with the Judges who have appreciated the unsuitability of the rigid application of non-native law where natives are concerned.

But there is a world of difference between the recognized system of law applied under the High Court and the autocratic rule of the Officer.

Savage systems must recede before a more advanced administration but difficulties are many.

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the border line between the two and I would here quote an extract from a letter which was circulated by me to all Magistrates on this very subject in September 1907.

Circular to Magistrates of 1907.

"As the question frequently arises in outstations in cases of homicide among natives whether there should be a criminal prosecution or whether a claim for bloodmoney should be permitted in a Civil Court, it is hoped that the following extract from a letter written by me on 24th June 1905 to the then Collector at Machakos on the subject may be of some assistance to Magistrates who have to deal with natives on the outskirts of the Administration."

(Africa)

(Sgd.) R. W. HAMILTON,

Principal Judge.

The question you raise is one of great interest. The solution of it presents difficulties that are not without careful handling. When the old order changes place to new, and especially where civilized ideas of thought and government are imposed upon the tribal ideas of rough justice common among natives, it is necessary to proceed slowly and with care. The idea of bloodmoney being paid as satisfaction to the relatives of a man who has been killed is very old and exists today pretty much among uncivilized or semi-civilized peoples. As a Government...

"punish breaches of it, the matter assumes a somewhat different aspect. It is no longer a question of compensation to a private family that has been weakened by the loss of one of its members, but it is a question of the Government making life and property secure and maintaining 'the king's peace.' The wrong done ceases to be merely a private wrong and becomes a public wrong, for the prevention of which the Government makes laws, and when these laws are broken it is the Government that prosecutes. So long as the Government has not the power to enforce its laws it is bound in order to maintain some semblance of order to countenance and enforce the native systems of punishment, but this is only until it is in a position to exact obedience to its own laws.

In practice it comes to this that the payment of blood-money will be allowed and enforced in districts out of reach of direct government control but the Penal Code should be put in force in those places where the Government exercises a direct administration and can enforce its own orders. Claims for blood-money which are not of too ancient a date but which arose before the British took possession of the country should, I think, also be allowed. But in cases of murder happening now in districts near Government Stations and under direct Government control there should be a criminal prosecution. In a case of manslaughter and not wilful murder the punishments might be combined. But as the security for life and order rests with the Government where a government station exists there should be a criminal prosecution in such cases.

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in the neighbourhood. Care should be taken in introducing the change that nothing is done which would prevent the natives giving evidence, and induce them to conceal crimes which would other-wise have come to light.

It is different ^{with} to lay down a strict rule for guidance as much must be left to the discretion of the Collector but the general proposition is that where the law can it will punish for murder and not leave it to be made the subject of a private civil claim only."

But difficulties of this nature do not form an argument against displacing savage methods by more civilised ones. ^{Practices such as} Witch Killing, trial by ordeal, and blood money for murder must give way where the Pax Britannica is to be imposed and maintained and there can I think be little doubt but that better effect will be given to His Majesty's instructions to Your Excellency 'to protect the natives in their persons and in the free enjoyment of their possessions, and by all lawful means to prevent and restrain violence and injustice which may in any manner be practised or attempted against them' by upholding legal methods rather than by handing the natives over to the 'autocratic personal control' of a District Officer.

Both the matter of a law and the manner of its application to natives involve questions of great difficulty which have frequently formed the subject of discussion in this country between the Judiciary and the legal advisers of the Government.

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conclusion that has been arrived at is that the laws should be varied as little as possible with respect to nationality but that greater latitude should be allowed in the application of the law in the case of natives.

If it is admitted that natives are to be subject to the law I do not see that the existing system can be bettered. District Commissioners have the widest jurisdiction and the greatest possible latitude allowed in its exercise; and as an further instance of the latitude allowed I might quote the fact that it is permissible to flog a native in addition to or in lieu of any other penalty to which he may have rendered himself liable.

The procedure against which the High Court sternly sets its face are floggings without trial, convictions without or on insufficient evidence or on pleas of guilty improperly recorded, or on evidence not subjected to cross-examination, or taken for the prosecution after the defence, on charges for offences not known to the law and other such matters which go to the root of all legal trial, and which are, I am pleased to say, of comparatively rare occurrence in this country.

As a substitute for this system the Provincial Commissioners ask for a system whereby a 'simple native code may be autocratically and personally applied'.

As a sample of this simple code there appears in the memo under discussion an attempt to give a simple definition of the word 'native'. I would

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ask Your Excellency after reading it to say if a code with definitions of this nature would be simple and likely to be understood either by the native or the officer whose duty it was to 'automatically and personally apply it'.

If I am right in my conjecture that the 'simple native code' means an all embracing code of laws, penalties, and procedure, I am afraid that such a code would necessarily be far from simple.

And with the greatest respect to the draftsman mentioned I am afraid that Mr. Macaulay and the legal Commissioners sometimes blundered in a simpler task Mr. Hobley might not be successful even though assisted by Mr. Laidlaw.

In conclusion I have only to refer to the returns for which Your Excellency asked.

They are made up for the years 1906, 1907, and 1908 up to the end of October. They include only cases tried by Provincial, District and Assistant District Commissioners, and the number tried by Provincial Commissioners being practically negligible quantity, the figures may be regarded as relating to the cases tried by District Commissioners and Assistant District Commissioners.

They show that during the period in question the average number of criminal cases in which the High Court has in any way altered the sentences of the lower Courts is about 3%, and in civil cases is a decimal fraction.

J. R. W. Hamilton

1/12/1908

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SECRET

1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916	1917	1918	1919	1920
1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916	1917	1918	1919	1920

SECRET

1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916	1917	1918	1919	1920
1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916	1917	1918	1919	1920

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Uganda in 1902.

Uganda in 1909.

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REPORT

upon the

UGANDA PROTECTORATE.

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Uganda in 1901.

Uganda in 1909.

THE UGANDA PROTECTORATE.

1899 - 1909.

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The Uganda Protectorate was formally incorporated within the British Empire in 1894-96. The events of the years of interim rule, extending over the periods of control of Sir Frederick Lugard, Sir Gerald Portal, Sir Henry Colville and Mr. Berkeley, I would not propose to go into as they are to-day matters of history with which nearly all are well acquainted.

The conditions which had arisen forced upon the Imperial Government the necessity of arriving at some definite settlement of the administrative affairs of the country, and it was accordingly decided in 1899 to send out a Special Commissioner, Sir H.H. Johnston, who should in his own words:-

"attempt to bring about such a settlement, the
 "re-organisation of finances and armed forces, and
 "report to the Government on the possibility of
 "creating a local revenue sufficient to meet the
 "eventual cost of the administration."

Uganda, at the period of Sir H.H. Johnston's assumption of office, embraced an area of about 150,000 square miles, surrounding the northern shores of Lake Victoria, and extending northwards to the ill-defined boundaries of the Anglo-Egyptian Soudan. To the east it included a large portion of the highlands between Lake Victoria

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and the sea, to eventually form the Eastern province, including such well-known tribes as the Masai, Nandi, Kavirondo and Lumbwa. This province was to be traversed by the Uganda Railway, then under construction.

On the west of the Lake were the highly interesting native kingdoms of Uganda, Toro, Ankole and Unyoro, to be formed into two provinces - Uganda, embracing that kingdom itself, the Western province taking in the remainder. Immediately to the north of the Lake was the central province, which included a large number of tribes, the most notable of which were the Busoga and the Bukedi.

The whole of the provinces, excepting the northern portions of the Eastern and Central, were under some form of native government, more particularly in the kingdoms of Uganda, Ankole, Toro, and Unyoro; all were thickly populated, the inhabitants being mainly of Bantu stock with a proportion of people of Nilotic origin.

To the north of these four provinces, bounded on the west by the River Nile, on the east by Lake Rudolph, and on the north by the Soudan, were to be established two provinces - the Nile and Rudolph - which were at the time, and have remained, almost unadministered.

Sir H. B. Johnston naturally devoted his primary efforts to the solution of questions concerning the well-administered native states, and more particularly the kingdom of Uganda. He considered that:-

- "no satisfactory attempt could be made to settle
- "the question of native taxation, military service,
- "tenure of land, or any other important question affecting

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"affecting the rights or sentiments of the natives, which
 "did not commence by special agreement with the kingdom
 "of Uganda.

He was led to believe:-

"that on the kingdom of Uganda mainly rests the
 "maintenance & justification of the British Protectorate
 "over these regions.

"After negotiations lasting about 2½ months, an
 "agreement was finally drawn up and signed by the
 "Regents (on behalf of the young King) and the leading
 "chiefs of Uganda and by the Special Commissioner on
 "behalf of Her late Majesty the Queen, which provided
 "a settlement for the following points amongst others:-

'The kingdom of Uganda was divided into 20 districts
 'each district being placed under a chief appointed
 'by the government of Uganda but having his appointment
 'confirmed by the principal representative of His
 'Britannic Majesty's Government. These 20 chiefs were
 'to be under the control of the King of Uganda, who
 'was to be assisted in his government by a native
 'council or parliament elected or lines laid down
 'in the agreement.

'The power of life and death was reserved to the
 'principal representative of His Britannic Majesty
 'in the Uganda Protectorate, who might also intervene
 'when necessary to modify excessive punishments of
 'any kind.

'The native ruler of Uganda was to be officially
 'recognized by the British Government, and to receive
 'a salute of guns on ceremonial occasions.

'The king was to attain his majority at the age
 of

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'of 18, and until that period the Government was to be
'carried on by Regents in his name, appointed by
'the British Government.

'The Civil List of the King and salaries of the
'Regents during the Regency and of the native ministers
'after the King had attained his majority, certain
'pensions to princes and princesses of the Royal
'family of Uganda, and the salaries of the 20 chiefs
'of districts, were stated at fixed sums, and it was
'agreed that the British Administration of Uganda
'should pay this Civil List and these salaries annu-
'ally out of the funds of the Protectorate.

'The King and chiefs were not to exact any
'further payments from their native subjects.

'All natives of Uganda were henceforth liable to
'pay a hut and a gun tax to the value of three rupees
'annually. Thus a native of Uganda owning both a hut
'and a gun would have as a maximum tax to pay to the
'Protectorate 9 shillings a year.

'The agreement also dealt with the settlement of
'the land question.

'A little less than half the area of the kingdom
'of Uganda was to be divided as the private property
'of the King, princes and princesses, the chiefs,
'and a large number (some 2,000) of native land
'owners. The remainder, including the forests,
'was to be handed over to the control of the British
'Government.

'A few other points of minor importance were
'provided for.

'This

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'This agreement therefore secured to the King, chiefs and aristocracy (these again being pledged to a proper treatment of their native tenants of the Protectorate) the tenure of all the land they occupied, had placed under cultivation or used as grazing ground. Waste and uncultivated lands and the forests were handed over to the British Government to be dealt with by them on the same lines as those on which they would deal with the crown lands of a Crown Colony.

'Native taxation henceforth was to be turned to the general support of the Protectorate, and natives were protected from illegal exactions at the hands of their chiefs. At the same time the irregular revenues of the King and chiefs, derived hitherto from an uncertain tribute, were fixed at a fairly generous scale and were henceforth to be paid to them by the British Administration of the Protectorate. Moreover, in return for the cession of rights over waste lands, the King and some of the chiefs received an immediate payment in money.

'As soon as this agreement had been approved by the British Government and its provisions had become known to the more intelligent amongst the natives of the Protectorate, there was very little difficulty, except where Europeans had never penetrated, in inducing the natives of other countries to accept a settlement on similar lines.

'The Kings of Toro and Ankole were dealt with by separate agreements similar to that concluded with Uganda. The general provisions of these

agreements

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'agreements as regards land and native taxation were made to apply to the rest of the Protectorate. Arrangements were then made to divide the Protectorate definitely into six provinces, and these again into districts.

'It was laid down as a general rule that a province should ordinarily be under the direction of a Sub-Commissioner, while Collectors and Assistant Collectors should be placed in special charge of districts or places.

'Recognized native chiefs are supposed to deal out justice "reserving matters of life and death" to their own subjects.

'The Sub-Commissioners, Collectors and Assistant Collectors held general magistrates' warrants, and administered justice to Europeans and all persons not native to the Protectorate, in addition to their work of collecting the revenues and generally providing for the maintenance of law and order in their respective districts.

'The finances of the Protectorate were brought into order. The telegraph service was extended from the eastern shores of the Victoria Nyanza to the kingdom of Uganda and thence to the Nile. The postal services of Uganda the Sub-Commissioner thought better to fuse with that of East Africa and place the whole under the management of the Postmaster General at Mombasa.

'The Military forces were re-organized by a diminution of the Uganda Rifles and the organization of a Constabulary of about 1,100 men, and in addition to one battalion of what was now to be called

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'called the King's African Rifles, recruits from
'the Cameroons, Uganda, Somalia, Ac., the 5th
'King's African Rifles (Indian Contingent) numbering
'about 400 Punjabis and Sikhs from the British
'Army, were organized.

'The administrative capital of Uganda Protectorate was established at Entebbe.

The above short description of the Administration by Sir H.H. Johnston is taken from his work on the country. On leaving it in 1901 he furnished to the Secretary of State for Foreign Affairs a confidential report upon plans which might be adopted for the future administration of the East African territories and Protectorates, the main provisions of which are as follows:-

" 1. The territories now provisionally included within the range of the United Protectorates should remain grouped exactly as they are at present, under a local administration emanating from Entebbe.

" There should be no question, in my opinion, of attributing a portion of the northern part of these territories to the administration of the Egyptian Sudan, at any rate for a period of several years.

.....
Still less do I agree with the less competent mooted of extending the present range of the East Africa Protectorate to the eastern coast of the Victoria Nyanza.

" Entebbe is on its trial as an administrative capital for the Uganda Protectorate; it may be shown later, for sanitary or other reasons, that a better place

place

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place might be selected, though I know of none more suitable at the time of writing. Wherever it may be placed, I think the administrative capital of the united Protectorate is bound to be on the shores of the Victoria Nyanza."

2. Although I consider that a certain unity of civil local administration should be granted to these territories now comprised within the limits of the Uganda Protectorate, I am nevertheless strongly in favour of the eventual fusion on general administrative lines of the East Africa and Uganda Protectorates, the complete separation of which is to some degree unnatural, and is only to be explained heretofore by the great distance separating Uganda from the Coast and the absence of rapidity in inter-communication. To a certain extent these two protectorates constitute two distinct spheres of influence, one radiating round Mombasa and the East African coast line, with its ancient Arab semi-civilisation and its important Indian commerce; and the other having as its centre and focus the remarkable Kingdom of Uganda, with its local prestige and its former civilising influence over the surrounding savage territory.

Sir H.H. Johnston proposed that "a central capital should be established on the Mau plateau, the administration of the two countries to be under the control of a high official with the rank and title of High Commissioner for the East African territories. At his headquarters were to be

established

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established the High Court for East Africa (possibly also the Court of Appeal for Zanzibar); headquarters of the armed forces of East Africa with their head-quarter staff; the Secretariat for the two Protectorates; the principal Survey Office; the joint Treasury for the two protectorates; the Headquarters of the Scientific and Agricultural department; the Local Audit department; the Railway and Transport Department; the Principal Medical Officer and the Public Works.

"Absolute union of finance and a single budget for the two protectorates.

"For purposes of local administration, a Commissioner at Entebbe (or whatever place was selected as the administrative capital of Uganda) and a Commissioner at Mombasa, working under the High Commissioner.

"Although the Government of Zanzibar might continue to be advised and directed by the Commissioner and Consul General, it might be as well to submit the supreme direction of Zanzibar affairs to the High Commissioner of East Africa, much as the Governor of the Straits Settlements exercises a similar direction over the Borneo Protectorates.

"The direction of the Uganda Railway to be removed from a Committee at the Foreign Office to the control of a department under the High Commissioner.

"At headquarters, under the High Commissioner, might be stationed the Chief Justice for the whole of East Africa (including Zanzibar), judges being placed elsewhere as found necessary.

For

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"For some time to come I fear the administration of the East Africa Protectorates will have to be assisted by a Grant-in-Aid, and the High Commissioner therefore must be willing to submit himself to detailed direction in financial matters at the commands of the Foreign Office or that department of the State which controls the affairs of these East Africa Protectorates. Otherwise the High Commissioner, in his government of these territories should be accorded greater freedom of action, greater command over detail than is at present allowed to the Commissioners at Mombasa and Uganda."

The remainder of Sir H. Johnston's report consists of recommendations as to the method of appointment, training, emoluments, &c. of the staff, and more detailed reasons for his recommendations that no portion of the Uganda Protectorate should be handed over to Egypt or the East Africa Protectorate extended to Victoria Nyanta.

In a confidential memorandum dated July 25th 1901 Sir Clement Hill, Superintendent of African Protectorates, in commenting upon Sir H. Johnston's suggestions and certain disabilities put forward by Sir Charles Johnston as to the business of the administration and insufficiency of the staff, suggested means for ameliorating the condition of the East Africa Protectorates.

Sir Clement Hill rejected the proposal advanced by Sir H. Johnston of forming two large Commissionerships under a High Commissioner, his reason being that he did not think that the latter could - in the existing state of the facilities of locomotion, which were likely to continue practically unchanged for several years - do

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justice to the united territories and to the Foreign Office. He also urged that the control of the latter would, in the event of the appointment of a High Commissioner, practically disappear.

Sir Clement Hill advocated a policy condemned by Sir H. Johnston, the main feature of his proposal being the extension of the frontier of the East Africa Protectorate up to Lake Victoria and the practical inclusion within it of what then the Eastern Province of the Uganda Protectorate. It was held that this would have the advantage of placing the whole course of the railway under one government.

Sir Clement Hill urged that his scheme not only brought the railway under one administration, but divided the Protectorates north of that by a line which, subject to tribal adjustment, followed natural boundaries up to Lake Rudolf, leaving the east to East Africa and the west to Uganda, thus allowing of the Governments of Uganda and the Sudan taking an increased interest in one another, and permitting the Governor of Uganda to remain unbiassed or uninfluenced by any inducements to force trade to follow either the eastern or the northern route, against what might prove to be its natural tendency.

These proposals were forwarded to the Commissioner of the East Africa Protectorate, Sir Charles Eliot, for his report on August 26th 1901. On October 7th of the same year, Sir Charles Eliot replied in the following terms:-

"In common with most African officials, I am impressed with the advantage of the scheme put forward

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forward by Sir H. Johnston for the fusion of the two protectorates, and believing it to offer the best means of securing efficiency and economy in the Government of our East African territories I trust it may still be borne in mind as an eventual solution. But I can quite realise the force of Sir Clement Hill's objection that the great distances and difficulties of communication render it impossible for one person to effectively supervise both the Eastern and Western shores of Lake Victoria.

The proposed extension of the East Africa Protectorate to the lake seems to me eminently desirable and even necessary. The present boundary is quite arbitrary.

.....

Apart from this, the upland districts form a natural whole, and the railway ought certainly to be placed under one administration.

.....

I should deprecate any large expenditure on the construction of a new capital. Sir H. Johnston advocated its foundation as the centre for the amalgamated Protectorates, but as that amalgamation is not going to take place, I do not see any need for more than one centre to the east of the Lake. Such a centre is now supplied by Nairobi. It seems to me uncertain whether it is the best position, but it is still somewhat early to say what will be the distribution of population and business when the line is completed.

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"I cannot agree with Sir Clement Hill that no effort should be made to induce the trade from Uganda to follow the Mombasa route. It appears to me that unless very energetic efforts are made in this direction, the railway will be in a most disastrous financial condition."

Sir Clement Hill's recommendations were approved, and in 1902 the Eastern Province of the Uganda Protectorate was handed over to East Africa.

Though supported by two of the most able administrators of East African History, the policy of amalgamating the Protectorates was deferred for two reasons: the lack of intercommunication, and the possibility of the lessened influence of the Foreign Office and of the Superintendent of African affairs. The latter objection is one which may be dismissed lightly, for if there was one circumstance which militated against the progress of the East Africa Protectorate, one potent factor which was largely responsible for the heavy expenditure of Public Funds on the Uganda Railway, it was the want of reliance in the local administration in dealing with purely local affairs.

Intercommunication in 1901 was just on the point of great improvements, which have been continued down to the present day.

In 1901 the Uganda Railway was approaching completion being finally opened to Lake Victoria on By great efforts upon the part of the Government of Uganda, the large steamer for her day "William Mackinnon", had been previously launched on the Lake and regular service established between Entebbe and

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the railway terminus. A small launch was working upon Albert Nyanza, maintaining communication between Butiaba and N'mule. Entebbe had been established as Headquarters in Uganda, but Mombasa remained the capital of East Africa.

From April 1902, which marked the separation of the Eastern Province of Uganda from that of the Protectorate, and its inclusion in the East Africa Protectorate, down to 1909, no further territorial changes took place excepting those necessitated in the adjustment of frontiers between the Protectorates or with the foreign states which surround them. Some changes however were effected in the departmental administration of the countries, the general tendency being towards the amalgamation of any which had common interests. Thus at an early period Posts and Telegraphs were made a joint department controlled by the Postmaster General of British East Africa. By the appointment of an Inspector General of Police for both Protectorates, this force has, to all intents and purposes, become an amalgamated one.

In 1909 the Governor of Uganda himself tentatively proposed an amalgamation of the Customs services, his reasons being that the present system of separate Customs Departments was not in the best interests of, and in some cases even a hindrance to, trade.

From the outset the Transport services of the two countries were amalgamated.

One department, which had a common head, the

Medical

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Medical department, was divided into separate Protectorate services in 1906, the Governor of Uganda maintaining that in the peculiar condition of the Protectorate with regard to Sleeping Sickness and other epidemics it was highly desirable that he should have the head of this department with him in his capital.

The general tendency, however, has been to amalgamate in so far as possible, and in 1909 are to be found amalgamated Posts and Telegraphs, Transport, and for all intents and purposes Police, Military and Customs. Any extensions of railways in Uganda should moreover be placed in charge of the Railway department of British East Africa, thus providing another joint department.

I will not hesitate to say that with the existing policy of separate governments, these amalgamated departments are not very satisfactory compromises to either administration, but the geographical and financial conditions of the countries have necessitated their creation. They will, however, never attain the highest efficiency until the two countries become one, and in such an event many other departments would naturally amalgamate to the advantage of the services.

The conditions of communication between 1901 and 1909 show very marked improvement. The Uganda Railway is now a firmly established line with a very regular and dependable service. Running in connection with it on Lake Victoria is a large fleet of admirable steamers furnishing a weekly service not only to every part in the two British Protectorates, but to the German ports at the south of the Lake.

In British East Africa, roads to the more populous centres

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centres have been established, but it is more particularly in Uganda that a road policy has been carried out. In British East Africa the larger portion of administered area and population is close to the railway line, whereas in Uganda there is no rail communication as yet, and the bulk of the population is to be found in the interior of the Protectorate.

A general scheme of roads has been taken in hand, combined with the use of motor tractors. Personally I am not certain of the eventual success of motor traction in African countries, and I will refer to this later in considering communications in detail.

In addition to the road policy, the Government of Uganda have put forward a scheme of railway communication, the main proposal being that of providing inter-communication as between Lake Victoria and Lake Albert, by means of railway lines connecting Jinja with Kakindu and Mruli with Butiaba. The use of these two independent sections of railway, combined with the water-ways which they touch, would place an immense area of populous country in touch with the outer world, and it is hoped, and I think with reason, lead to a vast increase in the export trade of the Protectorate.

I understand that at least one of these railways, the nearest one to Lake Victoria, is being favourably considered at Home, and its construction cannot be too strongly pressed. This railway is to work in conjunction with an improved steamer service of Lake Kioga, Lake Albert and the Nile. The steamers for this purpose have arrived in the country and will be in working order on the chosen routes within a few months.

They

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They will replace or supplement services which have been carried out by launches of smaller capacity, and will ensure, with the proposed railways, as regular a means of communication with the northern provinces as is to-day ensured by our large fleet upon Lake Victoria.

The position of communications in 1910 will be a very different one to that which existed in 1901. The time to-day occupied in a journey between the capitals of the country - Nairobi and Entebbe - is 48 hours. Entebbe itself will within a short time be, for administrative purposes, within 5 days reach of Lake Albert by rail and steamer, and the furthest point upon the navigable Nile, Nimule, be only nine days away.

The Eastern Province, by means of the steamer service of Lake Kioga, and failing the construction of a railway the use of a road now opened between Jinja and Kekindu, will be within 4 or 5 days distance of the capital.

With the construction of the two railways before-mentioned, the entire northern, western and eastern parts of the Protectorate will be in rapid inter-communication. The two northern provinces alone are unimproved in communication, except in so far as the posts on the Nile are concerned. It must be remarked, however, that no work has been done since 1901 in the direction of any great extension of administration in the countries lying between the Nile and Lake Rudolph.

The condition of communication within the efficiently administered areas will thus, in 1910, be such that all district headquarters will be within four or five days of headquarters at Entebbe. The headquarters of the

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two most important provinces, Uganda and the Eastern Province are at Entebbe and at Jinja. Hoima, the headquarters of Unyoro, is only 15 hours' distance by motor. These three provinces or districts embrace quite 50,000 square miles out of a total of 80,000 administered and 110,000 total, and contain a population of 2,400,000 out of an estimated total of 3,500,000.

The main objection to amalgamation in 1901 was lack of communications; this objection cannot be said to exist to-day, and by 1910 it will have been almost entirely removed.

Sir H.R. Johnston, in his report of 1901, urged that the two Protectorates constituted two distinct spheres of influence, one radiating round Wombasa and its Arab and Indian communities; the other having as its focus the remarkable kingdom of Uganda. To these two must now be added a third, the white settlements of the highlands of East Africa.

This third factor must have a potent influence in any considerations as to amalgamation. If the conditions existing to-day were those described in 1901, I would have little hesitation in advocating the fusion of the two governments. Before, however, considering the possible effect of this fresh influence, I would propose to go on with this report as if this influence had not arisen, and detail the existing conditions of British and native administration of Uganda as a separate entity.

II. FINANCIAL CONDITION OF THE PROTECTORATE.

The figures, as per attached Statement "A", show generally the financial operations since 1901.

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I do not propose to go into the figures prior to 1905; throughout this period the condition appears to have been an unusually healthy one from a financial point of view - decreasing expenditure, a steady increase in revenue and a considerable diminution in the Imperial Grants-in-Aid. The principle lately put forward as the 'half and half' would appear to be covered in this period of administration. If, as from 1904-05 forward to 1909-10 this principle had been in force, the total authorisable expenditure would have been approximately £1,160,000 and the consequent Grants-in-Aid £693,000. In point of fact the actual expenditure from 1904-05 to 1908-09 and estimated for 1909-10 was £1,270,000 and the Grants-in-Aid £678,000 - the difference being made up from the excess of Assets over Liabilities, and a surplus of actual receipts over estimates of £100,000.

In considering the figures I have assumed the somewhat hard rule that in consequence of the reduction in revenue in 1908-09, the 'half and half' principle should act inversely. In this year the decrease in revenue is largely attributable to the terrible epidemic of Sleeping Sickness, which also necessitated an annual increase of medical expenditure since 1906-07 of £10,000 to £15,000 per annum, circumstances demanding special consideration.

The financial results of these years cannot be considered as unsatisfactory, though supplementary estimates for 1908-09 and 1909-10 will, if the latter are approved, completely absorb the excess of assets of the Protectorate as they stood on the 31st March 1909. It is confidently predicted, however, that this position will not be witnessed on the 31st March 1910,

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and that a large excess will have again accumulated.

Provided always that the epidemics of Sleeping Sickness, &c. entail no further excess in expenditure and do not affect the revenue progress of the country, there would appear to be little necessity for anxiety in the depletion of the balances. There would appear to be every necessity, however, for economical framing of the estimates for 1910-11, and this policy will, I understand, be adopted by the Administration.

The excessive cost of the Military and Police forces and the special expenditure upon sickness has militated against expenditure for development purposes. Notwithstanding this, the Public Works Vote for Extraordinary works has in the last few years exceeded that of East Africa. By legitimate reductions in the expenditure on the armed forces, and perhaps later in the special expenditure upon sickness, the Protectorate will, provided revenues improve, which certain of accomplishment, be able to go forward with its current and incremental expenditure and provide considerable sums for ordinary development.

I thoroughly agree with Sir H.H. Bell that larger development, more particularly railway, is essential to progress, and the opening up to external markets of the latent resources of the country. Your Lordship has indicated the assent of the Treasury to the construction of the Jinja-Kekindu Railway by the expenditure of £200,000. The Treasury stipulate, however, that the estimates of this railway furnished by the Protectorate, should be submitted for expert advice at Home, and Your Lordship has passed them to the Consulting Engineers

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for the Uganda Railway. With all due deference I would submit that much more competent expert advice of local considerations can be obtained in this country.

On the whole, the finances of the Protectorate afford no cause for any anxiety; they have been most prudently supervised and notwithstanding grievous disabilities as to special expenditure, much long needed development work has been carried through. As I have said, further development is essential to progress, and it is a matter for congratulation that funds for its inception may now be forthcoming. I am convinced that the outlay will not only advance the prosperity of this country and increase its revenue, but act very beneficially upon the net revenue of the Uganda Railway.

III. BRITISH ADMINISTRATION AND POLICY.

The Provincial Administration to-day is organized under the control of the Chief Secretary to Government, and consists of five provinces. In the Northern province supervision is confined to Unyoro and the immediate vicinity of the Nile. The Rudolf Province remains unadministered. The Provincial and District staff are organized much on the same lines as in Northern Nigeria; they are advisers of the native governments, receivers and assessors of taxation, overseers of the native courts, &c. and carry out the other various duties attendant upon such functions. In addition they act for departments which cannot on economic grounds have distinct representation in the provinces.

It is regrettable that no definite policy has been laid down for the guidance of these Residents but

judging

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judging from the Provincial and District reports I have read, there would appear to be much more continuity and similarity of purpose and less individual idiosyncratic action than in East Africa.

Excepting from the despatches of Sir H.H. Johnston, I cannot ascertain that any policy has ever been laid down for the administration of the country. No Civil Service regulations have been issued in a complete manual, though the circulars on administrative and financial matters are in more complete order than in the case in East Africa, and the laws, though unconsolidated, are indexed in a much more satisfactory manner.

The Protectorate continues to be divided into provinces, but as the District Officers refer their reports direct to headquarters, I cannot determine the exact necessity for Provincial Commissioners. The District Officers act as judicial officers and are subject to the jurisdiction of the High Court. Here, as in East Africa, Provincial Commissioners complain that the power of Provincial Officers with the Chiefs is impaired by certain revisions of the High Court, which do not take sufficiently into account the communal system existing in native administration, political systems and considerations of native law and custom.

I have been enabled to discuss this matter with the acting Chief Judge of the High Court. In placed the matter in this light. We have accepted and allowed the continuance of native administration under tribal systems; that is to say, we have acquiesced in the continuance of Patriarchal rule except where repugnant. The British law is no more enterly applicable to such

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a state of society than it would be applicable to a revival in England of the conditions existing prior to the Conquest. British law is based upon the requirements of an individualised nation; native law in Africa meets the necessities of a village, tribal, clan or communal state of society. Though it may be imperative that the District and Native Courts of the native states or reserves should come under the jurisdiction of the High Court, it is equally essential that all due allowance should be made for the condition of society these native courts are dealing with. The judges rarely visit the countryside, too often have no knowledge of the languages of the people, and no opportunities of gauging their condition as to civilisation or their own laws or customs. On the other hand Provincial and District Officers, though less versed in the British law, have better opportunities of gauging native conditions. The chiefs look ^{should} and naturally look - to the District Officers as the mouthpiece of government. Prior to our advent the chief's judgments were final and absolute; with our arrival his powers were restricted and he came under the guidance of the British Staff. To now find that even here the decision is not final, is in a measure upsetting to primitive native ideals, and when revisions are made without due regard to political and executive considerations, a position of grave danger may be engendered.

Though I would not suggest, in imitation of Nigerian practice, that it is desirable to restrict the existing jurisdiction, it appears essential, both here and in East Africa, - to arrive at some compromise between Judiciary and Executive in the revision of sentences of native or district courts dealing entirely with

native

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native affairs. I indicate a compromise whereby the executive can clearly expose the possible effect of revision, and the Governor be in a position to avoid political complications which might arise by the too rigid application of our code of laws upon a primitive community. Such a compromise might be effected somewhat on the following lines:-

It is stated that the bulk of cases coming up from the Provincial Courts are not revised. In case of a revision being made by the High Court, the case should be returned to the Provincial Court for the Chief Magistrate's remarks. If he agreed with the revision, no further action would be necessary, but if on examination of facts and having taken into account the political circumstances, native law and custom, &c. he was of opinion that the revision was unwise, it would seem necessary to refer the matter to the Governor.

IV. MILITARY & POLICE.

I have already referred to this question in so far as East Africa is concerned, and after my enquiries here would now desire to consider this subject jointly for the two protectorates.

The Defence forces of the two protectorates, for I must in the present conditions of institution and status consider the Military and Police as a fighting force, have the following strength:-

	<u>Military.</u>	<u>Police</u>
British E. Africa	1000	1600
Uganda	2647	3900
	<u>3900</u>	
Total:	6547.	

Their cost is:-

	<u>Military</u>	<u>Police</u>
British E. Africa	£50,000	£53,000
Uganda	50,000	19,000
	<u>100,000</u>	<u>72,000</u>

Total: £172,000

The cost per man is:-

	<u>Military.</u>	<u>Police.</u>
British E. Africa	£31	£23
Uganda	48	18

The excessive cost of Military in Uganda is due to the employment of an Indian contingent, to which I will refer later.

The Military are nominally stationed as follows:-

<u>Units.</u>	<u>Nearest reinforcement</u>	<u>Distance</u>	<u>Strength.</u>
Rismayu	2 Coys. Nairobi	3-4 days	1 Coy.
Nairobi	6 " Zanzibar, Bombo & Entebbe.	3-5 "	8 "
Entebbe	1 Coy Kampala & Bombo.	1-2 "	5 "
Kampala	1 Coy Bombo & Entebbe	1 day	5 "
Bombo	4 Coys. Kampala	1 day	1 Coy.
Holma	1 Coy. Bombo	4 days	4 Coys.
Mbarara	1 Coy. Entebbe	6 days	1 Coy.
<u>16 Coys.</u>			

The Companies have no detachments.

The Police in both Protectorates carry out most of the escort duties and act as garrisons. Though there are thoroughly competent native administrations in Uganda and some well organised native tribes in British East Africa, little or no attempt has been made to organise native administration police for purely civil functions.

The Police of Uganda have 11 principal stations as follows:-

Kampala	107 men
Entebbe	139 "
Masaka	40 "
Jinja	72 "
Mbale	65 "
Mbarara	85 "
Fort Portal	80 "
Holma	81 "
Koba	59 "
Nimrie	100 "
Gondokoro	50 "

889 men.

The remainder form 11 detachments, varying from 3 to 40 men. The bulk of the men are acting as garrisons, in fact doing military work.

Sir

Sir H.H.Bell, in his Despatch Confidential of 6.1.09 refers to the force in the following terms:-

"The raw material from which the force is recruited is incapable of producing a man who is fit to be a "Policeman" in the ordinary acceptance of the term. 99% of the corps are merely savages - under a certain amount of discipline, and many years must elapse before they are capable of carrying out the responsible duties of Police constables. I have already pointed out to Your Lordship that I consider the Police force in Uganda mainly in the light as a body of armed men who in the event of serious emergency, would assist the regular troops to maintain our position in the country. If the Police were restricted to the performance of actual Police duty and were really fit to carry out the same, 75% of the rank & file might be dispensed with."

"In reply to this opinion," the Secretary of State observes in his Despatch Confidential of the 4th June 1909, "I am not able to associate myself altogether with the remarks made in para.32 of Sir H.H.Bell's Confidential Despatch of 6th January on the subject of the police."

"Experience has shown that it is impossible to secure that both civil and military duties shall be performed efficiently by the same body of men. As you are aware, I have recently laid down that the Uganda Police shall only receive such military training as will enable them to defend themselves where attacked and to assist the military in times of serious crisis. In view of the observations made by Sir H.H.Bell, it is a matter for serious consideration whether many of the duties he regards as belonging to the Police would not be more efficiently and economically performed by a comparatively small number of regular troops".

I am entirely in agreement with the view that it is quite impossible to secure that both civil and military duties should be performed by the same body of men. I go further, however, with regard to Police, when I state as my firm opinion that the only Protectorate native police force required is for our dealings with unorganized native tribes or in cantonments or areas under our own immediate jurisdiction where white, native and coloured races intermingle.

In established native states where the native inhabitants follow duly constituted native authorities, and are subject to the jurisdiction of native courts and the operation of tribal laws and customs, I maintain that an armed protectorate police is frequently a menace to good order, and a source of extortion and crime. In such states we should look to, and in practice must invariably call upon, a police or form of police acting directly with these native authorities.

It will be noted that Sir H. H. Bell states that if the duties of the force in Uganda were to be confined to purely Police functions, 75% of the force could be abolished. If such is the case, the sooner it is effected the better for the native populations.

Uncontrolled, or badly controlled, British police in small bodies are the curse of a native country. To make such a body carry out both military and police functions is highly undesirable. Though personally somewhat in favour of an armed and unarmed constabulary in the administration of such countries as Nigeria and Uganda, I am aware of the fact that such a policy does not meet with the approval of the Colonial Department; I am persuaded, however, that it will prove to be the eventual and best solution of the Defence & Police question.

Failing

Failing approval of such a body, I would favour:-

- (1) A military force for all military duties.
- (2) A Protectorate armed Police force for cantonments, and for areas not under the jurisdiction of native chiefs for British Courts.
- (3) A native Police force for native states and reserves and native courts. Such a police force to be under the Chiefs, and drawn from the tribe. - To be armed native fashion.

Military duties I define (apart from field operations) as garrisons of posts necessary for administration, and escorts in dangerous country or where a show of force is necessary, guards - other than treasury or prisons. Oftentimes, however, the station guard can and should be made to serve the triple purpose of Garrison, Treasury & Prison Guard; it is ridiculous to so often see three guards within hail of each other.

A most important military duty is that of opening up unadministered country. This is more often than not best accomplished by "sitting down" and allowing political officers to get into touch with the people. This ideal has been thoroughly absorbed by military officers in West Africa. - The raison d'être of our military force being more that of preventing war than making it. The duty I have described is a "garrisoned" outpost duty and a purely military one. In both East Africa & Uganda I find that such duties are relegated to the Police.

In Uganda every single outpost dealing with new peoples or unadministered areas is furnished by Police, 99% of which are said to be savages under a certain amount of discipline.

The rich eastern Province, so vividly described by Sir H.H. Bell in a recent report printed for Parliament, has not a single military officer or soldier stationed in it. Yet it is here that we are making our greatest strides in taking over unadministered territory. The northern or Nile Province is similarly devoid of troops, the three garrisons of Koba, Nimule & Gondokoro being furnished by Police.

The very work which usually attracts military officers to serve in the tropics is here laid off to the undisciplined people with the power of both soldier and policeman. The troops remain practically unemployed concentrated in large bodies, carrying on battalion drill and ready to form striking forces or moveable columns.

I have already referred in my interim report on East Africa to the distribution of the West African Field Force in Northern Nigeria, where, out of 21 companies, 16 are spread over 250,000 square miles - 10 to 20 days apart. Is the military situation here more dangerous?

On the contrary it is infinitely more secure and the countries have good communications compared with very inferior ones.

Is the concentration policy due to a similar one on the part of neighbours?

On the contrary our nearest European neighbour possessed exactly the same number of Infantry companies, viz: sixteen, has spread them over his whole area, as was the case with British Nigeria. The 16 German companies have 25 stations and detachments, 6 to 15 days apart. The 16 British East Africa and Uganda companies - 7 stations, 1 to 6 days apart.

The sixteen German companies have at headquarters one company and one recruiting company out of 16.

The

The British Headquarters, Nairobi & Bombo, have 10 companies out of 16.

The British communications are excellent - rail, road & steamer - and we control the shipping on the Lake. The Germans have but little rail and the remainder road.

I submit that the whole situation requires reconsideration. At present we are throwing away £30,000 a year.

The first requisite is a Commandant for the military forces, the system of moveable battalion commanders acting as O.C. troops being of little use in tackling either military, or combined military and administrative problems.

The second should be decentralisation, in imitation of West Africa and German East Africa. Battalion drill may be very useful to the whole morale of the King's African Rifles, but more usually we use company organisation. It might be wise to concentrate a few companies as opportunity occurred every two or three years and put them through battalion drill or combined exercise, but I do not think permanent concentration for such purposes is justifiable on any other grounds; financially it is a disastrous policy. Decentralisation will permit of a very large decrease in the Police force and place military duties upon the military forces.

The third requisite is that the Police should be organised for police duties only. In native states with any form of government, the chiefs themselves should have police acting with Native courts, and this is being done in Baganda. In cantonments, towns or mixed settlements, there should be White, Indian or Native Protectorate Police. The latter would also be detailed to British Courts throughout the Protectorate, though very often here, if the case in court is between two natives of the native state

in which a British Court may be established, the Chief's police will frequently act with the British courts.

Our aim should be to cut down the Police force, removing from its functions purely military duties and such police duties as may be best carried out by organised native authorities.

Whether the military force itself might not also be cut down I would not like to say at such an early period. There is however one aspect which should be considered, the necessity for the retention of the Indian contingent, which is a highly expensive force when compared with African troops. I am perfectly well aware of the reason for its being, but am not persuaded, and I believe this view is held by many military officers who have served here, that Nyasaland troops would not do as well and cost much less. Unfortunately the Indian contingent is due for relief in 1910-11, and measures have been taken with the Indian authorities to effect this relief - practically binding us to the contingent for another three years.

Its discipline and condition leaves little to be desired, and its marching power, which was doubted, has very recently been tested entirely to its credit. At the same time the very heavy expenditure involved by its employment drains the small resources of the Colony.

Had the period of relief been more distant, it might have been possible to do away with the contingent, but as matters stand, it would be wiser to face another three years of its existence.

DEPARTMENTS.

V DEPARTMENTS.

I have not gone into the working of any Government Department other than by a perusal of their annual reports - upon which I have a few remarks to make.

Secretariat. There is a vacancy in the appointment of Chief Secretary. This officer carried on duties more analogous to those of a Colonial Secretary. The appointment of Secretary to the Administration is a redundancy.

Prisons. are conducted in administration. The actual expenditure for 1907-08 of £1,532 and Estimate for 1908-09 of £2,200 is a pleasant contrast to the expenditure in British East Africa. The prisons have large farms attached to them, and are practically self-supporting.

The department appears admirably administered. It is mainly the creation of the present Inspector General of Police.

Transport.

The two Protectorates are spending nearly £40,000 on local transport. The Acting Governor in Uganda is of opinion that closer scrutiny would lead to economies.

Forestry, Botany & Scientific.

The total expenditure here is £2,200. This department has not only preserved forests, but actually furnished considerable local timber and developed saw-mills, etc., at a cost of £2,500 a year. I have been
much

much struck by the almost general use of local timber to the exclusion of imported. The savings in works have consequently been very considerable.

Public Works.

The rough cost of supervision in this department as compared with works, &c., maintained or erected, is about 15 to 16 per cent as against 40 per cent in British East Africa. Moreover the capital cost of buildings generally is invariably much lower than similar buildings in B.E.A. - facts which require expert enquiry and explanation.

Land & Survey Department.

The expenditure, £11,000 per annum, is high. The major portion is due to the native land policy, which I will describe later. £4,000 per annum is being spent upon Topographical surveys - useful, but not of prime necessity.

VI COMMUNICATIONS.

The communications of the Protectorate may be classified under three heads - (1) Water; (2) Road; (3) Railway.

Water Communications.

The existing water communications are those afforded by Lake Victoria, Lake George, and Lake Albert and the Nile. The Lake Victoria communications are maintained by the steamers of the Uganda Railway and the Protectorate armed vessel the "William Mackinnon"; these amply suffice for all present requirements.

The

The Lake Kioga service has in the past been carried on by means of a small launch. This has now been supplemented by a stern-wheel tugboat, which is to two lighters of a capacity of 100 tons. It has been further suggested that this service should, when the lake is placed in regular communication with Lake Victoria, be supplemented by the addition of some further lighters and a passenger steamer at a cost of £12,000. I am not convinced that the requirements of the country demand, even with the advent of railways, the immediate expenditure of this sum.

The Lake Albert Nile navigation extends from the Congo boundary down the river Semliki throughout Lake Albert and the River Nile as far as Nimule. It has been carried on in the past by means of a small launch and steel boats. These are now being supplemented by the addition of a paddle steamer. The increased fleet will probably meet the requirements of the country for some time to come.

R o a d s .

The construction of roads has absorbed most of the provision under Public Works Extraordinary during 1908-09, and for 1909-10 out of a total sum of £25,000. £14,000 was to have been devoted to the road programme; this amount has since been considerably reduced.

Up to December 1907 there were no roads in Uganda which were passable in the wet weather, and practically none had been bridged.

In

In the year 1908 an experimental motor lorry was introduced. The only road upon which it could be tried was that which existed between Ent and Kampala. The trials, which have now extended over a year, are said to have been eminently successful, and it has been thought that by the use of such lorries on fairly well constructed roads, the problem of transportation may be solved.

I have always personally had doubts of the success of motor lorries in their existing condition of perfection. Where a country has a developed system of roads necessitated by the possibility of using wheeled traffic, the introduction of the motor lorry is undoubtedly practicable, but it is to be noted that even in countries like England, France & Italy, with magnificently metalled roads costing from £800 to £1200 a mile, motor traffic is said to be very destructive to the roads and costly to the authorities who have charge of their maintenance. To introduce a system of roads almost entirely for the use of motor traffic would appear to me to be uneconomical, unless the roads of the country are to be used for wheeled traffic as well. I cannot see any justification for their construction. The motor lorry, as I have pointed out, requires a road of high class, entailing considerable heavy capital expenditure and annual maintenance.

The roads in the Protectorate are divided into five classes:-

Two classes only, the First and Second, are to be

be used for motor traffic; these classes are detailed with gravel or gravel and stone to a depth of 2 to 3 inches, and cost per mile from £90 to £180 in construction and about £10-£15 per mile per annum in maintenance. I cannot think that such roads will be capable of bearing motor traffic without heavy deterioration, and I am strengthened in this view by the condition of the Nairobi-Fort Hall Road, which approximates to the above classes and which, as a result of motor traffic, has been entirely broken up.

It is urged however that the roads will be used for wheeled traffic. How much this can be effected is difficult to determine. Wheeled traffic for the moment is almost entirely in the hands of Indians and is entirely dependent for success upon the freedom of the road from the tsetse fly.

The other three classes of road proposed for the country vary in cost from £10 to £80 a mile. They are not available for motor traffic, and presumably will be used by wheeled traffic where feasible, as there can be no justification for such expenditure on portage roads.

On the whole I cannot conceive of large tonnages being carried by motor upon even the best class of road described above, and if in addition wheeled traffic cannot be universally introduced, their further improvement to a high standard would not appear to be desirable. If the roads suited to motor traffic in Europe, but also utilised by every owner of ordinary animal drawn vehicles, cost from £800 to £1200 a

mile

mile, their introduction here for the solution of the land transport problem would appear impossible, and it would appear better to turn to a consideration of the use of light trams where very considerable can be developed. Such trams, which could be constructed at from £100 to £1500 a mile, would be far more economical in working and would carry a vastly greater tonnage than any system of lorries upon roads.

I would not from these results indicate any condemnation of the road traffic which has been initiated, but arrive at a conviction that though the lorry system may be advisable one at the outset, it would be better, if the traffic increases largely, to consider the advisability of their replacement in time by light trams, and their employment elsewhere in the development of trade up to that point where the construction of a tramway might be justified. But even in attaining this ideal, I imagine that such more capital expenditure upon the roads than contemplated will be entailed, and a very heavy annual maintenance incurred.

One important point in a country like this, however, must not be lost sight of, and that is the possibility of utilising these roads for administrative purposes by means of motor cars of lighter weight than lorries. Sir E. J. Bell has pointed out that he has been enabled to proceed from Entebbe as far as Mubendi in 12 hours, whereas formerly it was necessary to occupy 5 days on this journey.

Railways.

Proposals have been put forward for the construction of three lines of railway:-

- (1) Jinja to Kakindu.
- (2) Muli to Butaka.
- (3) Kampala Port to the northern end of Lake Albert.

The first two, if constructed, will, in conjunction with the Lake Kioga and Albert-Nile service, open up some of the richest portions of the Protectorate and give easy communication with the Anglo-Egyptian Sudan and the Congo.

Proposal No. 3 is one upon which great stress was laid by Sir H. H. Bell; he points out that this direct line would be in a measure more valuable in the tapping of the rich Congo territories lying to the west of the Protectorate's south-western borders. In this regard he urged that this traffic might not be so much attracted by the construction of (1) and (2). This opinion was strengthened by the fact that the use of (1) and (2) entailed trans-shipment at four points, whereas proposal (3) would only entail two operations. Trans-shipment in this country beyond the small distances which may be occasioned to the goods handled is a matter of little importance, its cost is extremely low, and the utilization of any reasonable lengths of water carriage available on a given transport route will certainly allow of much lower rates in through carriage.

Sir H. H. Bell further urged that the distance entailed

entailed by carrying goods practically along the arc of a circle instead of its chord, would entail heavier expenditure. In view of the fact that the northern or arc route will largely utilise water transport, I do not think this contention is tenable. This route may involve the expenditure of £100,000 to £500,000, although I think that this is an outside and high estimate. The southern or chord route has not been seriously examined, but has been roughly estimated to cost £1,400,000. Under such circumstances, I have no doubt whatever that the northern route is the one that successfully exists, notwithstanding the numerous trans-shipments, and will suffice for both the purposes of developing the rich eastern and northern portions of the Protectorate and yet attract any exports which are to be derived from the Congo or Nile basins.

The Colonial Department have for the moment restricted the programme to the consideration of the northern route (1 & 2), and the possible construction of the section (1) Jinja - Rakindu. This line has been the subject of a preliminary survey and estimate prepared by Capt. Stevenson, R.E. The estimate is at the rate of £4,400 per mile, entailing a total expenditure of about £200,000. The gradient chosen is 1/100, whereas that of the main line of the Uganda Railway is 1/50. The gauge recommended is that of the Uganda Railway, with the idea that at some future time the two railways may be connected up, i.e. Jinja to Kisumu. I cannot be persuaded that any such connection demands consideration. An ample steamer service as between

Kisumu

Kisumu and Jinja is carried on at a profit of 20% on a small capital expenditure, and the necessity to parallel this service by a railway costing £500,000, is inconceivable. At the same time it is undoubtedly wise to adopt for this section the same gauge as the Uganda Railway. In adopting the gauge, however, Capt. Stevenson has also adhered to the standards, both as to construction and maintenance, of the Uganda Railway. In view of the fact that the gradients on the ^{be} Kakindu line will be extremely easy, I see every reason for cutting down the standard of this line, and as it will be a short unconnected railway, it should be run much more on the principles of a tram than a railway.

The total estimated tonnage which may grow up on the line in its first year of working is estimated at about 7,000 tons. If the construction and rolling stock standards of the Uganda Railway are to be applied, the capacity of the line with 1 in 100 grades would be from its outset equivalent to about 80,000 - 100,000 tons per annum, a provision which might be required 15 years hence. The total estimated tonnage could be carried on such a line by less than one weekly train each way; I therefore see no necessity whatever for the provision of a standard in construction and working for the running of daily trains.

I would suggest that the line should be built to allow of the use of axle-loads of 7 tons, the present load upon much of the older stock of the Uganda Railway. The carriage and wagon stock for the line could thus be obtained from the latter, and with the use of 30 lb. rails, the capacity of the line might easily

easily be 20,000 to 30,000 tons per annum, if not more.

Coming now to the consideration of the further line as between Mbuli and Butiaba - here there will never be any question, even in the remote future, of connecting it with the Uganda Railway. It is perhaps conceivable that such a line might come into contact with the mythical Cape to Cairo railway, a project of indefinite conclusion, and moreover of 3'6" gauge, whereas the Uganda Railway is of metre gauge, a break of gauge is inevitable - should the scheme materialise.

My own policy has always been that we should, in any project which might eventually form a link in a greater system, adhere to the standard gauge adopted for a country. I do not think that an absolute adherence to this policy is always desirable. Divergence from it becomes all the more necessary in countries possessing small revenues and no borrowing powers. It would appear to me that the isolated Mbuli-Butiaba line is one for special consideration, and I am not at all certain that a smaller gauge and a very light standard should be adopted in its construction, or in any case a very light standard of meter gauge.

I am of opinion that the estimates put forward for the Jinja-Sakindu lines are much too high, and that by the use of lighter rails and local sleepers a large reduction in original cost can be effected. It is in all opinions desirable that the line should be worked by the Uganda Railway in connection with their steamers, and I think it not only possible but desirable that

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Coming now to the consideration of the further link as between Mruli and Butiaba - here there will never be any question, even in the remote future, of connecting up with the Uganda Railway. It is perhaps conceivable that such a line might come into contact with the mythical Cape to Cairo railway, a project of indefinite conclusion, and moreover of 3'6" gauge, whereas the Uganda Railway is of metre, so a break of gauge is inevitable - should the scheme materialise.

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that if the working of this line and the profits which will accrue are handed over to the Uganda Railway, they should provide the rolling stock from the surplus now on their hands, much of which is not suited to the working of their higher standard main line. If such a policy were adopted, I am confident that, not only ^{we} should be enabled, within the estimate of £200,000, to construct the first link with a capacity equal to many years of development, and on a method permitting of improvement without sacrificing original works, but that the sum provided would go far towards providing improved communication as between Muli and Butaba itself.

I have already referred to the Treasury's request that expert advice should be obtained in regard to these estimates in England. I trust it will be agreed, after the above detail, that any such advice had much better be obtained in this country. The consulting Engineers must base any criticism or advice upon knowledge of conditions obtaining before 1901. Since that date, labour, railway and water carriage, and local supplies of timber, have assumed an entirely different character to the position obtaining at the time when the main line was built. It is upon this improved position that I base my views upon these estimates, and it is upon local knowledge furnished by the administration here that it has become possible for me to advocate a very much lower standard of construction for the line in question.

Under such circumstances I trust that local advice may not only be sought, but be depended upon in any decision which may be come to.

VII. NATIVE ADMINISTRATION.The Kingdom of Uganda.

On the arrival of Europeans in Uganda, it was found that the Baganda lived under a government which had no mean pretensions to organization. The nation consisted of the Kabaka (king) and Balangira (princes), the Bataka (hereditary landed chiefs), the Kabaka's officers of the household and of the state, the Bakopi (peasants), and the slaves.

The Kabaka was surrounded by a large court of officials, some only of whom were hereditary landholders the remainder being recruited from the sons of the hereditary landholders and of former officials, and from the ranks of the bakopi.

This court of officials, both of the household and of the State, headed by the Katikiro (prime minister), formed the Lukiko, a combination of a parliament and court of law. Certain of the officials were the governors of the ten provinces or counties, termed saza, into which the kingdom of Uganda was divided until recently. (1)

The Owesaza, or head of the county, was in some cases an hereditary landholder, in other cases merely one of the bakopi, or peasants, who had found favour in the sight of the Kabaka and had become one of his officers.

The Owesaza ruled the county as the lieutenant of the Kabaka, and decided the more important cases therein with an appeal to the Lukiko and the Kabaka;

(1) The kingdom of Uganda is now divided into 20 counties.

he also through his officers and the hereditary land-holders collected taxes for the Kabaka, a theoretically certain, but practically uncertain, proportion of these taxes being retained by the collectors and the Owasaza as part of their emoluments.

Each Owasaza had at least eight or nine lesser chiefs, called Bakungu, under him. They were appointed by the Kabaka to assist the Owasaza in the government of his county, and bore the following titles: Latikiro, Muryuka, Sabadu, Sabagabo, Sabawali, Musali, Mutaba mukulu, Mutaba Mute, and Musigiri. In addition to these officials the Owasaza also had nine or ten private officials under him with the same titles, appointed by himself, four or five of whom were reckoned as chiefs. The official sub-chiefs of the Owasaza in their turn had officers with similar names, both official and private, and his private officers had three or four officials under them bearing some of the above titles.

The Baganda are divided into twenty or thirty clans, called bika. Each clan is distinguished by its muziro or totem, usually an animal, bird, insect or vegetable. Totemism in Uganda is however not in its primitive state; at any rate it is past the more archaic stage (as it is generally admitted to be) in which descent is traced through females, for in Uganda descent is traced from his father. In this connexion, however, it is interesting to note that the royal family form an exception to this rule, and with them the more ancient method prevails (or prevailed), kings, princes and princesses taking their clan from their mothers. With the exception of the members of three clans, exogamy prevails, no marriage being permitted between a man and woman of the same clan. In the royal family, however, there is a curious exception to the ordinary rules

concerning

concerning
their sisters and cousins.

Each clan has a kitawe (father) who is presumably a descendant of the original founder (kikole or root) of the clan, and is (or was until recently) the owner of the original village (butaka) belonging to it. The clans are subdivided into maiga (branches), each of which was founded by a descendant of the founder of the clan, who was given a piece of land of his own, which has descended in his family and is (or was until recently) owned by the head of the siga.

The internal affairs of each siga were referred for settlement to the head of the siga, but affairs in which more than one siga were concerned went to the kitawe or father of the clan. The head of the clan, although he might be only a comparatively small chief so far as his land and other possessions were concerned, was regarded inside the clan with more veneration in many respects than a son or relative of his who might be an Owesasa (head of a county) or even the Katikiro (Prime Minister); and even so late as the reign of the last kabaka (Mwanga) his position was recognized by those administering the government, and the collection of taxes was to a large extent conducted by him.

At the present day the country is administered by three Regents who act for the Kabaka, a minor, and who make with the consent of the Katikiro or Native Council, and with the approval of H.E. the Governor. The three Regents are the Katikiro (Prime Minister), the Mulamuzi (Chief Justice) and the Mwanika (Treasurer or Controller of the Kabaka's revenues). The Katikiro is President of

the

The northern Province, except Unyoro, (i.e. the old Nile Province) and the Rudolph Province are so far practically unadministered.

VIII.

LAND TENURE & SUCCESSION TO LAND IN UGANDA.

(1)

(1) The Kingdom of Uganda.

In the kingdom of Uganda, the whole of the land was considered ultimately to belong to the Kabaka (King), and no holding of land was recognized unless it had originated in a gift from him or had been definitely acquiesced in by him. As a consequence of this idea, mere possession, for however long a period, was not deemed to give any title to the land.

Prior to the establishment of British Government in Uganda there were two recognized methods of holding land, which are called respectively Butaka and Butongole. The more ancient was Butaka, which means the ownership of land, and from the earliest known times the land was held in individual ownership by the heads of clans. Butongole means separating oneself from the people to work for the Kabaka.

Butaka land owed its origin to a period before the arrival of the recognition of the Kabakas in Uganda, each chieftain being the holder of the land surrounding his village or group of villages, and he administered law to and governed the persons on his land. Butaka land was held by individuals and not collectively.

The

(1) Prepared from notes & reports by Uganda officials.

(2) The royal family is descended from the Bahima.

The mutaka had powers of life and death over the people on his land; he collected taxes from them and could eject at his pleasure anyone on his land. On the death of a mutaka he was buried on his land, and the butaka properties are now regarded as ancestral burial grounds. The estate was not divided on the death of the owner, but one person succeeded who was nominated by the mutaka before his death. The successor was frequently one of the mutaka's own sons, though rarely - until recent times - his eldest son. He had in any case to belong to the particular branch of the clan to which the deceased belonged. After the arrival or appointment of the Kabaka, butaka land could only be created by the reigning Kabaka, and the certainty of succession to the whole estate was limited by the power of the Kabaka to give part of the estate to one of his favourites.

In former times the country was not divided into 10 sases or counties, as was the case immediately prior to the advent of European government, but the divisions consisted of the various butaka, possessed by the chiefs of the Clans.

The Kabakas appear at first to have left the butaka in possession of their land, but it gradually became the custom for the Kabaka to send his own men into the country to see how things were being managed by the butaka and to collect taxes. These men were called butongole, and the Kabaka took from the butaka to whom they were sent, pieces of butaka land and gave them to the butongole to live upon. Thus the Butongole tenure arose, and we see the origin of the two tenures - that

of

of butaka, held originally by the chiefs of the old inhabitants of the land, and that of butongole, held by favourites or officials of the Kabaka as a reward for services rendered. The most important distinction between the two tenures is that the butaka land was hereditary, whereas the butongole tenure was not, but was practically a life estate subject to the Kabaka's power to eject the holder.

In the event of a mutaka being appointed a butongole, the butaka estate had to be handed over to one of his relatives who would be elected to fill the post. A mutaka could refuse such an office, but as a rule a man was more proud of the office of butongole than of his hereditary butaka holding. A butongole was in an enviable position as he was usually able to encroach upon the land of neighbouring butaka with a feeling of security, and he enjoyed the same rights while in possession of his estate as a mutaka. He could turn the peasants off the estate if he chose to do so; he could call on them to fight and work for him; he had the right to receive a percentage of the taxes which were levied from them, and he was entrusted with the general governance of the estate and administered justice to all upon it. It is thought that where the butongole became especial favourites of the Kabaka, they ultimately developed into saza (county) chiefs. In one or two cases a mutaka was appointed county chief and in such a case the office became hereditary in his family or clan.

Women were not allowed to hold land or succeed to it, except the daughters of a Kabaka, the queenmother, and the Kabaka's sister. One or two other female relatives of the Kabaka also held land as butaka. On

the death of a Kabaka, his mother and sister lost their estates, which went to the new Kabaka's mother and sister. When a Kabaka's daughter died, her land passed to another female descendant of their father. No woman could succeed to an estate held by a man, nor could a man succeed to an estate held by a woman.

A comparison has frequently been drawn between Uganda and feudal monarchies in Europe. The resemblance as far as land is concerned is however not so close as might be supposed for there is no system of tenure resembling the chain of tenants which is the characteristic feature of the feudal system. There were great chiefs with lesser chiefs under them holding office, and all these persons held land; but the chain, so far as it existed, was a chain of office rather than of tenancy. All the chiefs, both great and small, held their office and land either direct from the Kabaka, or had to be approved by him before they could enter into possession of either.

Certain changes have taken place in the land tenure during recent years. The first of these occurred before the arrival of Europeans, Mutesa decreeing that the successor to a mutaka should always be one of his sons, preferably his eldest son. The next took place after Kwanga's return from his flight to German territory, when it was arranged between him and his chiefs that in future on the death of a landholder the Kabaka was not to be entitled to any part of his personal property, a species of feudal "relief" which was until that time a custom in Uganda. In Kwanga's reign too there appears for the first time the idea of sale of land, as in one instance at least Kwanga sold an estate to a chief.

(2) U N Y O R O.

The Kabaka of Unyoro, who, like the Kabaka of Uganda, is of Hima stock, is regarded as the ultimate owner of the land in his country, except in the case of certain land held by the Saza or county chief, which is regarded as his bataka and over which the Kabaka has no power.

The Kabaka is the only person entitled to grant estates.

There is no communal ownership of land: the peasants are mere occupiers of the soil and are removeable by the Chief. Although the Kabaka could deprive any man of his land, it was the usual custom for it to descend to his successor, who was elected from amongst the sons of the deceased.

Women can hold land by private gift, but cannot inherit it.

The children of the Kabaka are regarded as peasants.

(3) T O R O.

There would appear to be a species of feudal system in Toro with the Mukama (King) as the supreme overlord and ultimate owner of all the land in the country. He distributed it to smaller chiefs and to peasants. In the distribution to smaller chiefs the King's consent however had to be obtained.

The land was held by individuals, and there was no form of collective ownership by members of a village or clan. Apparently the tenure of land either by chiefs or peasants was precarious, and in the old days depended upon the arbitrary will of the immediate overlord who had power to evict at his mere pleasure and put another in his place. At the present time the power of ejecting holders lies with the King and Lukiko in Council. Grants of land too must receive the consent of the Lukiko.

Holders

Holders of land, both chiefs and peasants, had formerly to work for their overlord and also to do military service. At the present time the peasants have to work one month for their chiefs or pay Rs.2 in cash.

Although the tenure of land was somewhat precarious, land was inherited, and a man before his death nominated from among his relatives a successor. A son, and probably the eldest, would in the ordinary course be preferred. Land could not be split up on the death of the owner in the same way as his women, cattle and goats, but it went to one person only.

Exchange and sale of land is unknown. Women could not hold land unless they were relatives of the King when they were given estates.

(4) ANKOLE.

As in Toro, a species of feudal system existed in Ankole, and the King was regarded as the ultimate owner of the land in Ankole proper, but there were also districts which were ruled by independent chieftains.

There are two distinct races in Ankole, the aboriginal Bairu, who are agriculturists, and their conquerors and present rulers, the pastoral Bahima. Although the Bahima are in theory the owners of the land, they have left the Bairu in possession and it is the latter who till the soil. The Bairu are or were in the position of serfs; they possessed an organization and chieftainships of their own, and they governed themselves under the domination of the Bahima. The Bahima chiefs directly govern the Bahima and indirectly govern the Bairu. The Bahima chiefs make arrangements with the Bairu chiefs under their jurisdiction whereby all the Bahima have Bairu to support them and supply them with food.

Except

Except in so far as the people were grouped together in villages under a chief, and the land did not go out of the possession of the persons in the village, there seems to be no trace of communal ownership, each member of the family or clan obtaining the property in his banana plantation and cultivated land by personal title.

There was no such thing as sale of land in Ankole, and only exchange when a chief wished a particular plot and gave a peasant other land instead. A holder or owner of land could nominate his successor from among his children. If a man died without nominating his successor, the eldest son succeeded to all his property.

As a general rule, a woman had not the status of a person, but was herself regarded as property and could not possess or inherit land. The King's daughters however owned estates and there is at present one woman chief in Ankole.

(5) B U S O G A.

There was no paramount chief in Busoga, and all land was recognised as belonging to the chiefs. If anyone wanted a piece of cultivated land, he applied to the chief who summoned the occupier and gave the land to the man who offered the best terms. The evils of this practice were eventually recognised, for the more the occupier did his land, the more likely was it that someone else would covet it, and in 1904 the Sub-Commissioner induced the Lukiko to agree to forbid existing occupiers of land so long as they paid rent and taxes.

At the present day a man nominates his successor before his death. In the case of a large plot, each of the deceased's sons receives a small share.

Women receive nothing as a rule, but sometimes a man

gives

gives a favourite wife or daughter a plot during his lifetime, and this plot remains hers after his death.

(6) BUKEDI.

The most important tribe inhabiting the Bukedi country are the Bagishu, who are estimated at 600,000. There is no paramount chief among the Bagishu, who are split up in a large number of sub-tribes. The head of each family is in many respects regarded as a chief.

Each clan claims a definitely known strip of land, and each male member of a clan can claim a piece of this strip. There appears to be no exchange of land, but any owner may sell his land without interference. Land is hereditary, and upon the death of an owner, if all his sons are married, they share alike. If any of the sons are unmarried, the eldest son takes charge of their portions until they are old enough to marry. If there is more than one wife and each wife has male issue, the children inherit the land cultivated by their mother. Women cannot hold land or succeed to it.

(7) THE LATE NILE PROVINCE.

Alur, Mafi, Acholi, Bari.

The customs of these tribes are apparently very similar. There is no king or overlord, and there seems to be no conception of ownership as distinct from occupation. If a native requires a particular plot for purposes of cultivation, or for the erection of his hut or group of huts, he is at liberty to take it, provided that it has not been taken up or occupied by someone else.

Women apparently hold land by cultivation in much the same manner as men do. In this connection it may be mentioned that one of the chiefs of the Layuka, another Nilotic tribe, is a woman.

THE UGANDA AGREEMENTS 1900-01

(1) The Kingdom of Uganda.

The Kingdom of Uganda was declared a British Protectorate on August 27th 1894, and the rest of the present Protectorate on June 30th 1896.

Land Regulations were promulgated on July 10th 1897, which authorized the issue of occupation certificates (which were in the nature of leases) for 21 years. A form of certificate was prescribed in the schedule, and the certificate was under the hand of the Commissioner, but was not a deed under seal. Agricultural leases and leases in township plots were made under these regulations. Later (about 1899) similar leases were issued for the term of 49 years without altering the existing law, which provided only for leases for 21 years.

The Africa (Acquisition of Lands) Order in Council 1898 made provision for the vesting of land taken for public purposes, and the Indian Land Acquisition Act 1894 was applied to Uganda on August 17th 1899.

On April 9th 1900, Sir H. Johnston issued a circular declaring all wastelands of the Protectorate to belong to the Government, and forbidding any person, not being a native, to acquire land from natives without the consent of the Commissioner.

The Uganda Agreement of 1900 was entered into on March 10th of that year. It provided, inter alia, that waste and uncultivated and forest land, and land occupied without prior gift, was to be vested in H.M. Government.

The Ankole Agreement was entered into on October 25th 1901. This agreement was similar to the Tor agreement with regard to land. After the murder of Mr

Galt

Galt in 1905, the Ankole agreement was suspended.

On March 10th 1900, Sir H.H. Johnston, Her Majesty's Special Commissioner for the Uganda Protectorate, after a stay of about 2 months in the country, entered into an agreement with the regents and principal chiefs of the kingdom of Uganda, who acted on behalf of the Kabaka, chiefs, and people of Uganda.

Sir H. Johnston considered that he was not over-estimating the value of this agreement when he informed the Secretary of State for Foreign Affairs on March 12th 1900 that it:-

"solved the questions of the taxation of the natives and the control of the land in the Uganda Protectorate, and, as regards the kingdom of Uganda proper, determined once and for all its exact boundaries, rights, privileges, and obligations."

After the agreement had been signed, it was forwarded to the Secretary of State for ratification. Lord Salisbury, in commenting on this, wrote as follows in his Despatch No.174 of June 15th 1900:-

"The agreement is submitted for my consideration and approval, but in view of the fact that it has already been formally entered into and is signed by a number of persons whose consent would be necessary before any modifications could be effected, it is difficult for Her Majesty's Government to alter any details without invalidating the whole agreement. This they are willing to do,

.....
"It is probable however that in the course of a

Under the agreement the Kabaka receives as private estates 250 square miles of land, the Queen mother, prince and princesses 140 square miles, the regents 18 square miles of private and 48 square miles of official estates, two of the chiefs 11 square miles, and 1000 other chiefs 8 square miles apiece, or 8000 square miles. The apportionment of these lands was, in accordance with clause 16 of the agreement, left to the decision of the Native Council with an appeal to the Kabaka, and it is not surprising that the fertile lands of the now sparsely populated districts should have been reserved for the chiefs, the former holders in many instances being expropriated, while the waste land, much of which is probably of little use, has been left for the Government.

It is estimated that the Survey of the Chief's estates will not be completed for another 20 years, at the end of which time we shall find that the Government owns a large number of isolated plots (estimated to amount in the aggregate to 3000 square miles) scattered over the kingdom. I believe it will be considerably less, but it is impossible to say yet. The Land Law (Bill) passed by the Native Council was persuaded to enact last year, is a useful piece of legislation, as it specifies the tenure upon which the estates are held.

It is difficult to state with any degree of certainty what laws are applicable to the Kingdom of Uganda, as it is laid down in the Agreement that the laws made for the general governance of the Uganda

Protectorate

97

Under the agreement the Kabaka receives as private estates 250 square miles of land, the Queen Mother, princes and princesses 148 square miles, the regents 18 square miles of private and 45 square miles of official estates, two of the chiefs 11 square miles, and 1000 other chiefs 8 square miles apiece, or 8000 square miles. The apportionment of these lands was, in accordance with clause 4 of the instrument, left to the decision of the Native Council with an appeal to the Kabaka, and it is not surprising that the most fertile areas and the most densely populated districts should have been selected by the chiefs, the former holders in many instances being expropriated, whilst the waste land, much of which is probably of little use, has been left for the Government.

It is estimated that the survey of the Chief's estates will not be completed for another 20 years, at the end of which time we shall find that the Government owns a large number of isolated plots (estimated to amount in the aggregate to 9000 square miles) scattered over the Kingdom. I believe it will be considerably less, but it is impossible to say yet. The Land Law (Draft) 1902, which the Native Council was empowered to enact last year, is a useful piece of legislation, as it specifies the tenure upon which the estates are held.

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Protectorate

Protectorate by H.M.'s Government are equally applicable to the Kingdom of Uganda, as it is laid down in the Agreement that the laws made for the general government of the Uganda Protectorate by H.M.'s Government are equally applicable to the Kingdom of Uganda, except in so far as they in any way conflict with the terms of the Agreement, and conformity to those laws is to be a sine qua non of the recognition of the Kabaka as native ruler, whilst elsewhere in the Agreement the Kabaka, aided by the Native Council, is indicated as the legislative authority of the native government. The Kabaka cannot make laws except with the consent of the Governor. In addition to these two distinct legislative authorities, which may at any moment give rise to a conflict of laws, the Agreement that the laws enacted by H.M.'s Government shall apply to the Kingdom of Uganda would appear to be contra-distinct to the "Direct rule" of the Kabaka, which is provided for in Clause 3.

With regard to taxation, the Agreement provides three sources of revenue:-

- (1) "The revenue collected under Customs Regulations, Porters Regulations, and so forth, instituted for the Uganda Protectorate generally, which may be described in a sense as exterior taxation."
- (2) "The Hut tax and Gum tax, referred to as "interior taxation".

(3) Municipal rates, fees and charges.

Laws for raising revenue under (1) and (3) may be made by H.M. Government without reference to the Kabaka, but any taxation under (2), other than hut tax and Gun tax, requires the consent of the Kabaka.

In considering the application of laws in this respect, the meaning of "exterior" and "interior" taxation had to be determined. Sir H. Bell consequently addressed to the Secretary of State on the subjects of legislation and taxation in his despatch to U.S. of July 10th 1908, and reported that the validity of some of the existing sources of revenue might at any moment be called in question as being imposed in a manner not in accord with the provisions of the Agreement, whilst any proposals to enact legislation in the Protectorate involving duties, fees or taxation of any other kind might bring the matter to a head. He also forwarded the Crown Advocate's interpretation of "Exterior" and "Interior" taxation.

The Secretary of State in reply stated that he was advised that Mr. Russell's interpretation of "Exterior" and "Interior" taxation was correct, and as the legality of certain existing taxes was open to question, he suggested that the Native Council be asked to modify the Agreement so as to read that no taxes beyond those already in force should be imposed without the consent of the Kabaka, unless they applied to all inhabitants in the Protectorate, whether native

or others.

The Acting Governor, however, is of opinion that at the present time it would be most inadvisable to act in the manner suggested, and he wrote as follows to the Secretary of State in his despatch No. 247 of September 9th 1909:-

"I have noticed during the last few months that the Native Government view with the greatest suspicion all proposals which they consider may in any way vary the terms of the agreement of 1900, and this I believe is due to the many alterations which we have been forced to ask them to pass within a comparatively short period."

Mr. Boyle thoroughly realizes that if the Agreement were modified in the manner proposed, it would solve at any rate some of the difficulties; but if the Native Council refused to accept such modification, the Administration could not compel them to do so, and as their acceptance of it would give almost absolute powers to the Government and take away the security from taxation contained in the Agreement, it is practically certain that at the present time they would decline to surrender one of their most valued rights.

In conclusion, I submit a list of agreements or laws which have been made and which affect the Uganda

Agreement

Agreement 1900. Further amendments will in course of time have to be added to this list:-

- (1) The Uganda Agreement (Poll Tax) 1904
- (2) The Uganda Agreement (Judicial), 1905
- (3) The Uganda Memorandum of Agreement (Forests) 1907.
- (4) The Land Law (Mailo) 1908.
- (5) The Native Laws Proclamation, 1909.
- (6) The Uganda Agreement (Poll Tax) 1909.
- (7) The Uganda Land Law, 1909.
- (8) The Uganda Land Law (Survey) 1909.

Toro Agreement.

On June 29th 1900, Sir H.H. Johnston entered into an agreement with the King and chiefs of Toro. This agreement provided, inter alia, that all land, waste and uncultivated, at the date of the agreement, all forests, mines, minerals and salt deposits should be considered the property of the Government. Various private and official estates were also mentioned.

(3) Ankole Agreement.

An agreement was entered into between the Acting Commissioner of the Uganda Protectorate (Mr. Jackson) and the king and chiefs of Ankole on August 7th 1901. This agreement is almost identically similar to the Toro Agreement 1900, and makes some attempt to deal with land, but it goes very little way towards a settlement.

Shortly stated it provides that :-

(1)

(1) All waste lands and uncultivated land at the date of the Agreement and all forests, mines, minerals and salt deposits are to belong to the Government subject to certain, or rather uncertain, privileges of the natives with regard to the forests.

(2) The King, Prime Minister of Ankole and the chief of each of the nine sub-divisions are to be granted official estates out of the waste lands, amounting to a total area of 110 square miles.

(3) The same persons are to be guaranteed private estates amounting to a total of 152 square miles.

It is laid down that part of the estates are to be in certain sub-divisions.

In 1905 the Ankole Agreement was suspended owing to the murder of the Sub-Commissioner of the Province, but it has not been annulled.

LAND LAWS & AGREEMENTS IN THE UGANDA
PROTECTORATE SINCE 1901.

The settlement of land claims was gone into in 1901, and certificates of claim were issued to all Europeans (Missionary Societies and others) who had acquired titles from natives prior to the administration of the British Government. In 10 of 11 cases this form was also used for the recognition of native titles

titles. These certificates of claim were under hand and seal.

The only other law affecting land at the time was the Factory Regulations 1900.

In 1902 Judge Ennis advised a discontinuance of the certificate of claim formerly used as far as native claims were concerned, and drafted the form of certificate of claim still in use, which confined the recognition of ownership of such tenure, whatever it might be, as the land was held under. He further dealt with the vagueness of the tenure of native estates which the Government appeared to be prepared to recognise. From this time onwards until 1906, a series of Minor Regulations affecting land were enacted.

Early in 1906 it was found that many difficulties were experienced in drafting conveyances of land, and in order to enquire into the general question of land tenure in the Protectorate and to make recommendations with regard to legislation, a Committee consisting of Judges Ennis and Carter and Messrs Russell and Allen were appointed.

The report of the Committee was submitted on March 13th 1907, and two separate reports by Judge Carter dealing with different aspects of land tenure were submitted on October 2nd 1906 and September 16th 1907.

The first of Judge Carter's reports dealt with the native land tenure in the Kingdom of Uganda. It showed clearly that land was held in severalty and not in common; it disclosed two different native holdings, viz: Butaka and Butongole; and it indicated that

that the Native Government in settling Native Land claims under the Uganda Agreement, paid little regard to the ancient native tenures. Lands were allotted to persons in some instances which were Butaka lands belonging to others, and the report states that among the natives it was looked upon as a new order of thing wrought about by the British Government.

Considerable injustice indeed appears to have been done in the allotment of estates under the Uganda Agreement 1900, and Judge Carter, quoting from the report of the White Fathers, writes as follows:-

"The number of miles (5000) having been shared out to a great number of chiefs, the chiefs chose their miles wherever it suited them best, preferring of course villages and the most densely populated and most fertile parts. Many a time were the rights of the butaka violated. The King's miles were chosen first, then came the regents, then the chiefs of counties, and lastly the smaller chiefs or batongole. It frequently happened that the estate belonging to one clan fell into the hands of another clan. The chiefs did not bother much about the butaka, and told the people that this was a new order of things introduced by the Government, with the result that the natural proprietors of the land have seen a great number of their villages, etc pass into the hands of other clans. One curious result which is anticipated is that the creation of new "masiga" or branches of the clans will begin again and that every holder of an estate or "mailo" allotted by the Lukiko under the 1900 Agreement will become the founder of a new "siga" or branch

Judge Carter's second report deals with the native land tenure elsewhere in the Protectorate. ⁽¹⁾

The Committee made the following recommendations:-

1. That an Ordinance be enacted declaring that:

(a) all land and any rights therein in the Protectorate be deemed to be the property of the Crown until the contrary thereof be proved.

(b) all rights to or over forests, minerals or water be deemed to be the property of the Crown until it be proved that the right has been exclusively exercised by continuous use for an uninterrupted period of 12 years;

(c) the Governor may recognize any title as against the Crown;

and

(d) where no title has been proved or recognized by the Governor any person or persons may be called upon to prove their claim or title to any particular area of land or right therein.

2. That a Transfer of Property Ordinance be enacted, similar to the Indian Transfer of Property Act 1882.

3. That the law relating to easements, e.g. rights of way, water, light, etc be definitely laid down.

4. That an Ordinance be enacted to regulate the acquisition by possession of property and for a limitation of suits.

5. That the law of specific relief (the recovery of possession of moveable and immoveable property) be defined on the lines of the Indian Specific Relief Act 1877.

6. That the system of registration be re-

organized

(1) Section VIII (2) to (7).

reorganised by the introduction of a system of registration of Land Titles on the lines of the "Torrens System" to guarantee the indefeasibility of title.

7. That the Native Government be called upon to enact a law specifying the tenure upon which the "Halla" estates are held.

8. That a settlement be arrived at with regard to the agreements entered into the Ankole and Toro.

Sir H. Mesketh Bell, in commenting on the report and recommendations of the Committee, said that the matter was so intricate and technical that he could only follow the advice of the Committee, and requested the Crown Advocate to draft the legislation suggested, and the Lukiko to pass the native laws that appeared to be necessary.

Copies of the report of the Committee and of the Judge Carter's reports on the existing system of land tenure in the Uganda Protectorate were forwarded to the Secretary of State, who wrote on March 24th and August 17th 1908 to say that he approved generally of

all

all the proposals submitted and of ordinances being promulgated to give force to them. His Lordship also agreed that similar arrangements to those proposed for the kingdom of Uganda should be made in regard to the land granted under the Toro and Ankole agreements.

On June 12th 1909 the "Registration of Lands Titles Ordinance 1909" was enacted by His Excellency the Governor and in the same month "The Land Law (Malle) 1909" was enacted by His Highness the Kabaka by and with the advice of the Lukiko and with the approval of His Excellency the Governor. "The Land Law (Survey) 1909" was enacted by the Kabaka in August 1909, and "The Crown Lands (Ascertainment) Ordinance 1909" has been drafted but not yet published.

"The Land Titles Ordinance 1909" was enacted pending the introduction of a modified form of the "Torrens System". As soon as definite proposals for the introduction of the "Torrens System" in the Protectorate have been considered, they are to be submitted to the Secretary of State in accordance with the instructions contained in C.O. despatch No. 198 of August 17th 1909. "The Land Law (Malle) 1909" is a very important enactment, as it specifies the tenure upon which the "Malle" estates are held. The draft "Crown Lands (Ascertainment) Ordinance 1909" follows closely the Ceylon law upon which the "Registration of Titles Ordinance" was founded for East Africa. According to the terms of this Ordinance, all land and any rights therein in the Protectorate are assumed to be the property of the Crown unless they are recognized by the Governor or until

until the contrary be proved.

The question of the ownership of forests in the kingdom of Uganda, for which provision was made in ambiguous terms in the Uganda Agreement 1900, was settled by an agreement called the "Uganda Memorandum of Agreement (Forests) 1907", to which is attached a schedule giving the names of the Government forests. All isolated pieces of forest which do not exceed one half square mile in area may be included in native estates, whilst other forests are vested in the Government as Government Forest land.

The two officers would, from what has preceded, appear to have accepted the position in the Uganda and Toro Agreements as final; there remains that of Ankole, suspended in 1905 owing to the murder of Mr. Galt.

In Ankole, Judge Carter is of opinion that until the question as to ownership and rights in land is settled, it is impossible to replace the original agreement by any satisfactory one, and until the original agreement has been revised, the Courts cannot be organized and put upon a proper footing. It is therefore, he writes, desirable that the matter should be dealt with as soon as possible, and the longer it is allowed to stand over, the more difficult it will be to arrive at a satisfactory settlement. It is unnecessary to wait for the completion of the proposed legislation with regard to land in the Protectorate generally before dealing with the question.

In Ankole the chiefs are Bahima, a pastoral tribe, whilst the people are the agricultural Bairu. Until recently the former took very little interest in land, except as affording pasturage for their herds and flocks

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and did not exercise the physical power which they possessed as conquerors to eject the Bairu. Had they done so they would have starved, as the Bairu supplied them with food.

Under the agreement the peasants, as in the kingdom of Uganda, are none of them to be deemed owners of land. Only 11 chiefs are to receive 116 square miles of official estates and 162 square miles of private estates. The question at once arises - what are the private estates to consist of? Entirely of cultivated land or partly cultivated and partly uncultivated? The literal carrying out of the Agreement is impossible at the present time as it is unknown how much land was under cultivation 8 years ago. The fairest way to estimate the probable quantity of land under cultivation at that date is to estimate the number of families in Ankole and fix what was the average cultivated by a family. That part of Ankole included in the Agreement amounts to 3,433 square miles and the population is estimated at 200,000 - i.e. 29,600 Bairu families and 4,400 Bahima families. If it be taken that each Bairu family requires for its support three acres and each Bahima family 1 acre, the total area required would be 145 square miles. If this estimate is correct and if private estates are to consist entirely of cultivated land, there are no other landowners in Ankole than the Government, and the 11 persons mentioned in the agreement. But the agreement does not speak of the private estates being of those which the chiefs are in possession or to which they have claims or are entitled and with regard to the King it is laid down that 25 square miles of his private estates "must be held in the subdivisions of Shema and Keshari", which seems to imply that the estates

were

were future rather than already existing. The Agreement also speaks of an estate out of the waste lands being granted to each chief.

It is obviously impracticable on the one hand to assign a large enough block of total uncultivated land to each chief to form an official estate, or on the other to assign entirely cultivated land to a chief to the extent mentioned in the agreement to form his private estates. The latter proceeding would mean hundreds of isolated pieces of land being allotted to one man, which would not only be extremely inconvenient for him, but would render survey difficult and would preclude the possibility of Europeans or others getting a manageable estate.

Judge Carter suggests that blocks of land, one, two or more, of the requisite extent in the specified sub-division, and mainly uncultivated, but necessarily including some cultivated land, be assigned to each of the chiefs named in the Agreement in respect of the official estate, and that, similarly, blocks of land, as far as possible cultivated, be allotted in respect of the private estates. These latter should as far as possible include land which is in the neighbourhood of the chief's residence or where most of his immediate dependents live.

Judge Carter further suggests that the number of private estates should be considerably increased in size to compensate the holders for the loss of cultivated land. He thinks the King, for instance, should have 100 or 200 square miles to make his estates more nearly comparable to those of the Kabaka

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of

of Uganda. He also thinks it would be wise to allot small estates, preferably official ones, of one square mile or more to a certain number of leading chiefs (other than those mentioned in the agreement), more especially as it may be argued that it was not intended by the agreement that no other estates than those mentioned should be recognized, and that the estimate of the amount of land required or cultivated by each family may not be too low.

As in Uganda, the chiefs should have no right to sell any part of their official estates.

When the agreement is revised, notice should be taken of the nomination of successor and of the right of the Government to depose. The nomination should be made expressly subject to the Government's approval and it should be laid down what acts or omissions would justify the Government deposing chiefs. As it is desired that chiefs should really govern the country and not be merely ornamental, provision should be made in order to enable the Government to depose a man for undoubted incapacity and continued neglect.

No provision has been made in the agreement for pasturage of cattle. Judge Darter suggests that anyone should be entitled to graze his cattle on any land not under cultivation, provided that this right is restricted for marketing purposes or where a proprietor has been permitted to fence his land.

The provisions of the Land Law (Uganda) 1908 enabling Government to acquire land for public purposes should be applied to Ankole, and it would also be well to provide that the official land allotted might be exchanged by the Government for Crown Lands of equal value, should the Government so desire.

Judge

Judge Carter's suggestions with regard to the settlement of the land question in Ankole may be summed up as follows:-

- (1) The matter should be taken up at once without awaiting the completion of the present scheme of land legislation in the Protectorate.
- (2) The Agreement of 1901, though taken as a basis of operations, should be amended and revised.
- (3) Assuming that the Government, the King and the 10 chiefs mentioned are the only persons at present entitled to estates in land in Ankole, mark out the official and private estates mentioned in the Agreement in rectangular blocks, adding to the size of the official estates, locating the private estates as near as possible to the residences of the chiefs, but making no attempt to ascertain what land was actually under cultivation at the date of the 1901 Agreement.
- (4) Mark out such other smaller estates as it may be considered advisable to give to other chiefs.
- (5) All the private estates to be disposed of as in Uganda, but only in rectangular blocks.
- (6) Give each family of peasants a perpetual right of occupancy of a plot at rental of

- (7). Give specified minor chiefs leases of certain tracts to be held by them and their successors, half the rent of the peasants on the land to be retained by them and half to be handed to the owner of the land - whether the Government or a chief.
- (8) Make provisions for sale or exchange of official estates and compensate natives turned out of land.
- (9) Specify the rights of the Government, king and chiefs to call for labour, &c. and the conditions upon which the king and chiefs can be deposed.
- (10) Modify (if necessary) the "Land Titles Registration Ordinance 1908" and the "Land Law (Mailo) 1909".

The modified agreement should also contain amended provisions for the administration of justice on the lines of the existing system in Uganda, except that the native courts should not have power to try offences punishable with death or transportation for life.

REVIEW OF THE LANDS POSITION.

II.

The position as to lands is complicated and unhappy; it promises a rich field for litigation. The position is entirely due to the false premises or lack of any premise in the framing of the original agreements.

Quite apart from the situations, both political and personal, which have been created, these documents in themselves are so loosely worded that they are almost inoperative in so far as the supposed Government rights

rights are concerned. The original error was the supposition that there were waste or crown lands.

If I have gone very fully into the land question and policy, my excuse must be that upon it hinges most of the difficulties in the administration - present and future - of Uganda. The existing conditions emphasize the unwisdom of applying rough and ready policies to a matter of such deep importance.

In dealing with native administration in Africa, it is always essential to acquire an exact knowledge of land tenure under native law and custom before any real attempt is attempted with reforms. As a general rule it will be found that native law and tenure amongst people of South African descent do not vary greatly, and when we look to the results of the researches made by Kidd in South Africa or those in the Congo and East & West Africa, the general basis of their tenure would appear to have been a patriarchal one in which all the land was within the gift of the chief, but at the same time each and every member of the tribe enjoyed the fruits of his own labour in farming, stock raising, &c.

The chief himself had the duty of organizing his tribe for war, and had probably become their head either through some physical or mental superiority of his own or of his ancestors. By his efforts in organization he maintained the independence of his people, and if his cunning in war was lost, the result too often was the loss of his life and of its independence by his tribe.

In Uganda, and more particularly in Northern Nigeria, negroid peoples had passed from this purely patriarchal condition to a species of feudalism. It

is impossible to compare these systems with those of feudal Europe. What had happened in these countries, and I must say that the parallel is extraordinarily strong, was that organization had not been that of a single chief. Usurping, nomadic, or other elements had seized the reins of power.

Possessing apparently higher instincts in government, or perhaps guided by some external influence (Islamic or other) there was developed all the elements of a higher form of government, a rough justice, a rough taxation (more frequently extortion) and a division of the people into clans which might or might not coincide with their division into local governments. These local governments were presided over by the heads of the clans, or more often by favourites of the king or paramount chief, too often residing in the capital. These sub-chiefs or fief-holders had certain powers over the people, but I cannot discover that in either country they had any actual possessions in land other than the grant from time to time by their king of certain lands for the use of their office or of their family so long as they held a particular office or were heads of certain clans.

The actual ownership of land was in the hands of the king or paramount chief. Their power was precarious owing to the fact that justice and life and death was of little account to their rulers. Land itself had acquired no value in transfer. The king or paramount chief himself was aided, in so far as he wished to obey it, by a species of council. As in the case of the more primitive patriarchal times, it was the duty of the king to organise his people for war, and it was on his success as a commander-in-chief or organiser that the very life of his people depended.

When

When such kingdoms or patriarchal states as I have described came under European rule, our first object has always been to prevent internecine warfare and to abolish repugnant laws and customs. We in fact look upon ourselves the most important duty of native kings or chiefs, we ensured that the tribes holding lands should be continued in their holdings.

European officers, and particularly law officers, have at times taken the purely legal view that if these native kings in the past had the lands vested in them, we should not continue to vest these lands in these kings as a matter of personal property. I cannot agree with such a contention, nor as to its wisdom in native administration or progress. I have always urged that, in countries which are purely native, the old trusteeship of native kings should be merged in the general trusteeship of the British Government. The duty of providing extra land, or holding their own for his people by warfare was no longer the chief's, but had now fallen upon us to be solved by more peaceful means and administration.

I have suggested as a solution that the native lands in Northern Nigeria should be nationalised, and that there should be some form of trusteeship where the rights of the natives could be protected and those of the community as a whole safeguarded, and I trust that this idea is being carried out.

Sir H. Johnston, at a time when we had little knowledge of native law and custom, entered into a hurried agreement with at the time most unwilling chiefs, an agreement which is fraught with danger to the future and which is based upon no known native law,

an agreement, moreover, so loosely worded as to involve unending litigation. The consequence has been the breaking down of native administration and the creation of large native landed proprietors at the expense of the peasantry. The fact that the peasantry here were rarely, if ever, slaves, goes far to show that as free men they were landholders.

If an agreement had been simply entered into with the king saying that he would be continued in his office, would continue to have the duty of allocating the land to his people according to his own native law and custom, but would have no power to alienate lands without the consent of the Governor, I think the administration of the country would have gone slowly forward without any disturbance of ideals, and eventually a land law could have been produced which was suited to changed conditions and did not throw vast estates into the hands of a few uneducated negroes.

It has been proposed to extend Sir R. Johnston's system to other parts of the Protectorate. I cannot conceive that this would be a wise move, but at the same time the cupidity of the chiefs having been aroused by attention having been called to the actual value of owning land, the position is a somewhat difficult one in solution.

Amalgamation would not to my mind accentuate the difficulty of the situation, but tend to mitigate it. The Uganda administration is today overshadowed and obsessed by the many only too natural administrative and legal difficulties which have arisen out of these agreements. If the question became part of

even greater and larger policy, its relative importance would be more adequately recognised and dealt with.

I would not desire to be associated with any idea that the Agreements should be repudiated. On all sides it is admitted that they are unfair to the peasantry, and they have undoubtedly produced discord and confusion in native administration and separated it from its real advisers in progressive administration. It is urged that expediency demands the application of the same to other native tribes; this I cannot accept with if it is motivated by fear. If the policy is an unhealthy one, we should not allow of its further extension. If this was done, the native chiefs of East Africa would surely have some reason to claim equal treatment.

Uganda standing by itself is, as I have said, obscured by this Frankenstein. Amalgamated it would have the weight, let us hope, of a strong general administration to relegate it to its proper position, and mitigate some of the evils which have arisen, without further sacrifice of native rights.

III.

NATIVE TAXATION

During the present year legislation has been enacted to enable the Governor to apply to such districts as he may notify by Proclamation, a poll tax in lieu of the hut tax levied under the Hut Tax Regulations 1900 and of the poll tax (Bachelors' tax) levied under the Poll Tax Ordinance 1905. The Uganda Agreement 1900 was also amended and the Uganda Agreement (Poll Tax) 1904 abolished by the Native Council, and

a fresh agreement, called "The Uganda Agreement (Poll Tax) 1909" entered into.

The following taxes are at present levied:-

In the Kingdom of Uganda Rs.5 poll tax, 20% of which is paid to the Kabaka & chiefs for salaries to the sub-chiefs, provided not less than £600 is collected per annum.

In Busoga, Rs.5 poll tax, 7% of which is paid to the big chiefs and 3% to the small chiefs.

In Eukedi, Rs.3 poll tax, 5% of which is paid to the chiefs.

On the Nile, where the country is administered, Rs.5 poll tax, 10% of which is paid to the chiefs.

In Lango, Rs.5 poll tax. This territory has only been occupied for 8 months, and it is probable that 10% of the amount collected will be paid to the chiefs.

In Bunyoro, Toro & Ankole, Rs.3 hut tax and Rs.2 poll tax on bachelors, 10% of which is paid to the Kabakas and 10% to the chiefs.

It is proposed to bring in the universal poll tax of Rs.3 in lieu of the Rs. 3 Hut tax and Rs.2, poll tax, in Bunyoro, Toro and Ankole from April 1st next.

A gun tax of Rs.2 to be imposed on every person who possesses a gun, rifle or pistol.

In the Kingdom of Uganda and also in other parts of the Protectorate, e.g. Toro & Busoga, chiefs charge the natives who are settled on their lands a rent of Rs.2 per annum. If the natives prefer it, they can work for one month in lieu of paying rent.

XIII. - CONCLUSIONS & RECOMMENDATIONS.

Of the two Protectorates, Uganda appears to be in the healthier administrative condition, though certain departments would be the better for new blood, and the Provincial administration is languid for the same reason. In neither protectorate have we much declared policy for the guidance of political or administrative officers. Uganda, being at present a purely native country, ought to and does present fewer complications, if we except the extraordinary and unnecessary land position. Sir H. H. Bell has however pointed out that it is not an unsuitable country for planter life, and this element may come forward at any time. When it does, it is quite certain that we shall hear much criticism of the Government land policy and need the ^{aidance} assistance of the soundest possible judicial and legal assistance to avoid pitfalls we have practically dug for ourselves.

It is not impossible to conceive that the East African Protectorate would have been on an even sounder basis today, had it not witnessed the somewhat hurried introduction of white settlement. This new element, introduced with the full knowledge and consent of the Imperial Authorities, has for the moment vastly complicated the administration. A protectorate organised in Sir H. H. Johnston's and Sir A. Hardinge's day for a native population has been rapidly forced into conditions more suited to white settlement. Government Departments, still unexistent in Uganda, had to be hurriedly organised and a very heavy annual expenditure entailed. Fortunately the land question, in so far as native authorities were concerned, presented no difficulties. Had anything similar to the Uganda

Agreement been in force with the Wakikuyu or Masai, the difficulty of the situation would have been even greater. Notwithstanding, the Government has been subject to much criticism at times legitimate, but as often exacting and unreasonable.

Upon the East African Government alone has fallen the duty of organising joint services such as Railways, Customs, Posts & Telegraphs, and Marine. These departments have been a conspicuous success.

The result on the whole in East Africa has been to momentarily disorganise other Government Departments or lead to the introduction of indifferently equipped services. Moreover the want of clearly defined policy, the lack of administrative regulations, and the condition of the laws have accentuated the difficulties. These latter disabilities are not unknown in Uganda. Uganda authorities might be inclined to think that the position created in British East Africa was due to general administrative mistakes and faults which they have avoided or do not possess. This would not appear to be the case. Uganda has been merely spared circumstances which would have sown disorganising seeds in any government organised for native administration. Should Uganda now witness planter immigration, the condition of its land laws and the lack of departments to deal with planter questions, would apparently produce an analogous or more difficult situation.

It appears idle in considering amalgamation to urge that Uganda would thereby be sacrificed to the maladministration of British East Africa. The latter carries on, and will continue so doing, many departments for the general benefit of both, yet bears all

criticism

criticism. The experience it has gained and the departments it has built up for white settlement would on amalgamation be at the disposal of Uganda.

The British settlement in B.E.A. is an accomplished fact, and its presence demands a broader view of the situation. These men are of our own kith and kin and will presently wish - there are many applications already - to take part in the development of Uganda. We must therefore face the new position and its future problems. It would not be fair to allow of Uganda seeking all the benefits East Africa can give her and as a return trust that the latter can be adequately compensated by a money return on the Uganda Railway. If by amalgamation the Colonial Department can be strengthened in East African administration and policy without impeding Uganda progress and development, fusion of some kind should take place.

The general benefits which would accrue to both Protectorates are -

- (1) the strengthening of the most important departments of Government, - Judiciary, Legal & Secretariat;
- (2) the complete fusion of departments at present jointly managed but subject to the orders of both Protectorates;
- (3) the fusion of departments which should obviously be under one head, but cannot today for various reasons - Military, Police & Prisons;

(4) A common Railway & Marine Department.

With or without amalgamation it would be wise to use the Uganda Railway staff for the management of extensions in Uganda proper.

(5) Interchangeability of Staff and more scope for promotion.

(6) A larger outlook upon all problems and policy of Government.

East Africa requires strengthening to deal with the many important questions before it, but it is at times lost to sight that these very questions may face Uganda at any moment.

(7) Considerable savings, even after provision is made for strengthening the Staff.

Uganda would particularly benefit by:-

(1) Interchangeability of staff.

At present some of its stations are notably unhealthy. With amalgamation many invalidings might be obviated by change of station.

(2) Strengthening of the Staff, and the amalgamation of organised Lands, Agricultural, Scientific & Veterinary departments.

The senior officers consulted have little doubt that immigration will take place, and in such an event it must be repeated that the Uganda Government may be subjected to all the disabilities witnessed elsewhere, and not possess the staff to cope with them.

(3) An extension of railway and water communication to the rich internal provinces is essential to the progress of Uganda and the financial balance of both Protectorates. It is entirely in the interest of East Africa to assist this development, and she possesses an admirably equipped and managed department to effect such a purpose.

(4) A wider outlook in general policy.

On the other hand it might be urged that Uganda, without a distinct head and direct access to the Colonial Department, would be in a weaker condition to demand its own rights, and that it is a native country unsuited to immigration and must be dealt with as a separate problem. - The fact remains that it has today many joint interests with East Africa, that the policy has been to increase those interests, and that separate government has not allowed of their being highly efficient or satisfactory to both countries.

Much will depend upon the form of government adopted. If Uganda could remain for the present to all intents and purposes an entity without the jurisdiction of the East African Crown Colony, amalgamation cannot have any dire effects. I do not indicate that there are many strong opponents of amalgamation, but there are some non-officials who fear complete fusion and others who think it might be disturbing to the Baganda Kingdom. On the other hand, the Acting Governor, a man of fourteen years experience, favours it. I cannot see that at present there would be any course open to us than the retention of a protect-

protectorate under the Governor of East Africa as High Commissioner. In such an event, I doubt any real opposition from any side.

By such an arrangement, joint services would come under one governance and yet purely local services necessary to the Government of Uganda be conducted as a separate administration. The joint services could be:- The Secretariat, failing an Imperial Secretary, in so far as it dealt with Uganda for the High Commissioner, the Judiciary, Law Department, Railways & Marine, Customs, Posts & Telegraphs, Military, Police & Prisons, Transport and Medical.

These joint services might be worked as follows:-

- (1) Railways. The Uganda railway to construct any railways and develop marine services approved for Uganda, and work them for what they will bring in.
- (2) Posts & Telegraphs. As at present.
- (3) Customs. As at present.
- (4) Military. A Headquarter Staff to work both
- (5) Police & Prisons. The Inspector General to become an executive officer.
- (6) Public Works. Joint store services managed by British East Africa. Later the departments might be fused.
- (7) Transport. Under a Director of Transport. (partly B.E.A. at present)
- (8) Medical. A Director General and two P.M.Os.
- (9) Treasury. A Financial Commissioner and

(10) Legal.

An Attorney & Solicitor General as legal advisers to High Commissioner for Uganda. Locally in Uganda a Legal Adviser.

(11) Judiciary.

A Supreme Court of British East Africa. Laws to be assimilated in as far as possible and codified. Indian laws applied in both Protectorates to be incorporated.

Uganda would be called upon to pay for the High Commissioner's office, and a proportion of joint services other than railway and marine.

The Uganda Government, under the authority of the High Commissioner would be administered much on the lines of the South African Protectorates.-

A Resident Commissioner.

Secretary to Government.

Treasurer.

Principal Medical Officer.

Education.

Public Works.

Legal Adviser.

Lands & Agriculture, etc.

The Audit Department would be common to both the Colony and Protectorate.

Such an organisation would effect all the purposes detailed, would allow of Uganda developing on its present lines yet fit and ready for changes. Joint services would be to mutual benefit and be under one hand, and large savings would accrue.

After

After as close an examination as possible of existing conditions in both protectorates, and bearing in mind the future developments which are bound to arise, I must generally recommend the advisability of the establishment of some form of joint government for British East Africa, and trust this report and its recommendations may permit of an early decision on this important subject.

Government House,

NAIROBI.

18th November 1909.

FINANCIAL STATEMENT - 1904-11

WISCONSIN PROTECTORATE

	1902-03	1903-04	1904-05	1905-06	1906-07	1907-08	1908-09	1909-10	1910-11
Estimated Revenue	46,000	71,000	111,000	19,000	73,000	87,000	135,000	140,000	140,000
Actual Revenue	41,000	71,000	89,184	77,000	84,000	7,000	111,000	111,000	111,000
Estimated Expenditure	171,000	197,000	181,000	181,000	307,000	4,000	261,000	261,000	265,000
Actual Expenditure	202,000	187,000	173,000	104,000	342,000	106,000	271,000	271,000	271,000
Grants In Aid	199,000	130,000	110,000	100,000	707,000	85,000	1,500	1,500	97,100
Special Grants	1,000	...	2,000
Excess of Assets	28,000	18,000	74,000	11,000	81,000	87,100	20,000	211,000	8,800

UGANDA IN 1901.



The Secretary of State for the Colonies to the
 Governor of the East Africa Protectorate
 (Sent, 5.30 p.m. 7th January, 1910)

Private and Confidential

I have received your report on the administration of the East Africa Protectorate and Uganda. I have read it with very great interest, and am much indebted to you for the time and trouble devoted to it, which must have imposed a heavy strain on you in taking up your new duties. The proposals will be carefully considered in detail, particularly on the arrival of your further report on the East Africa Protectorate. In the meantime you will no doubt desire to receive some general intimation of my attitude in the matter. As to the economic policy advocated in your telegram of the 13th of November, you will already have received my telegram of the 28th of December. As to amalgamation, circumstances which I will explain to you separately have made it necessary to designate a new Governor of Uganda for a period of not more than two years. Full amalgamation therefore is not practicable at present, but I am much impressed by your arguments in favour of amalgamation of some kind, and I shall not cease to consider the question more closely during the period of office of the new Governor. In the meantime your report on Uganda will be extremely valuable to me particularly in the matters of the land question, communications, and military policy. There will be nothing in the appointment of the new Governor to prevent the construction

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and working of the railway from Jinja to Kakinda as a part of the Uganda Railway, if, or ^{the} receipt of the report which I have requested you to furnish on this subject and which I should be glad to have as soon as possible, such a course appears to be desirable.

As to the East Africa Protectorate, I agree generally in your view that the administrative staff should be strengthened; that native chiefs should be used in the administration of purely native reserves or states; and that it is desirable to encourage a more active participation of the white settlers in county or local government and in agricultural matters. I agree in principle to the desirability of the first three of the new appointments which you desire. It will be necessary to consider in connection with them the position of the present holders of the offices of Principal Judge, Lieutenant Governor, and Crown Advocate. I presume that you will submit detailed recommendations on these points. The question of appointing a Commandant must depend on a decision as to the military question generally, which will be separately considered in the light of your remarks. I agree generally in your proposals for the redistribution of the work of the departments, but I regret that I do not see my way, on the information before me, to terminate the appointment of Mr Hutchins, though you may be sure of my fullest support in reducing the expenditure of his department to any amount which you may consider necessary. It will be necessary to consider his position and the position of other heads of departments now separate before I can

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give detailed approval to the new scheme. Perhaps you desire to indicate an ideal to be worked up to as circumstances, e.g. the retirement or possible transfer of present heads of departments, permit. You should, if you have not already done so, send me the fullest possible explanations and recommendations on these points, remembering that it will be necessary to adjust the dialing of officers now at the head of separate departments by some means, other than dispensing with their services, unless absolute inefficiency can be maintained against them.

I agree generally as to composition of Council, but the change of the sex composition will have to be gradual depending on appointment of new officers suggested by you and progress of re-organisation. I consider also that the number of unofficial members should not exceed 6 at present.

In conclusion, I desire again to express my very sincere thanks, and my warm appreciation of the ability and usefulness of your reports.

(CROSS)