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INTER-TERRITORIAL ORGANISATION IN EAST AFRICA

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INTER-TERRITORIAL ORGANISATION IN EAST AFRICA

The war having ended, it is now necessary to consider the future of the inter-territorial organisations which were created in East Africa to co-ordinate and direct the joint war effort of Kenya, Uganda and Tanganyika (which has involved the pooling of resources in production and man power and the common use of transport, shipping and supplies) and also of the inter-territorial services which existed before the war and which will inevitably expand in the future.

Kenya, Uganda and Tanganyika compose a solid geographical area. They maintain a common customs and excise tariff and free trade among themselves; they are served by interlocking communication systems and have important interests and problems in common.

Defects in the present arrangements

2. *The composition of the Governors' Conference.*—At present the inter-territorial services and functions are loosely organised within the structure of, and directed by the Conference of East African Governors. The Conference consists of the Governors of Kenya, Uganda, Tanganyika, Northern Rhodesia and Nyasaland and the British Resident, Zanzibar. Participation by the Governors of Northern Rhodesia and Nyasaland and the British Resident, Zanzibar, is restricted in practice to a limited range of subjects and the Governments of Northern Rhodesia and Nyasaland are now more closely associated with the Central African Council established earlier in the year. For the purpose of the proposals set out in this paper the Conference consists of the Governors of Kenya, Uganda and Tanganyika. Since the middle of 1940 the Governor of Kenya has been the standing Chairman of the Conference and has been entrusted with certain special emergency powers over all the territories; powers which it has never in fact been found necessary to exercise. The Conference maintains a permanent Secretariat under the direction of a Chief Secretary, through which correspondence is conducted and directions given and which acts as a general inter-territorial executive staff in such matters as may be entrusted to it.

3. *Defects in the Governors' Conference as now organised.*—The Governors' Conference is a body which was established by administrative direction of the Secretary of State and which has no juridical or constitutional basis. Its functions without public debate or discussion and its decisions are normally based on material available only to the Governments concerned and not to the general public. In practice it is frequently necessary for the Governors, having agreed in the Governors' Conference to a certain course of action, to present their Executive and Legislative Councils with what amounts to a *fait accompli*. By its nature the Conference is not well designed to enlist the support of public opinion and to take full advantage of the considerable body of expert knowledge and experience which is available in East Africa. In fact it must be admitted that, although it has served an important purpose, the Governors' Conference in its present form is no longer an appropriate or effective means of discharging the important responsibilities and functions which must continue to be performed on an inter-territorial basis.

4. *Present procedure to secure common legislation unworkable.*—When common legislation is necessary, the procedure is to present identical ordinances separately to the three legislatures. This is not only unwieldy, but it places the territorial Governments in the position of being unable to accept amendments of any kind as a result of debate without destroying the very

uniformity which the legislation aims to achieve. At the best the ordinance which is passed first forms the model for the other legislatures and their debates become unreal. The procedure is manifestly unworkable as a permanent arrangement.

The present organisation

5. *The permanent common services.*—The present arrangements have grown up gradually over a period of years to meet the growing need for co-ordination in peacetime and, more recently, to enable the territories to make their maximum contribution to the war effort. These arrangements have no constitutional backing and it is clear that such a backing must now be given. Before setting out in detail, as a basis for discussion, the proposals which have been formulated with this end in view, some account of the existing common services is required. The common services established on a permanent basis are Defence, Posts and Telegraphs, Customs and Excise,* Income Tax,† Meteorology, Civil Aviation, Air Transport, Statistics, Currency, Central Research and Higher Education. The Kenya and Uganda Railways and Harbours services are controlled by the High Commission for Transport of Kenya and Uganda. These Railway services are closely interlocked with the Tanganyika Railways, first because of the physical contact at Kahe Junction near Moshi and through the Marine services on Lake Victoria and secondly because the area served by the Kenya and Uganda and the Tanganyika Railways forms a common economic unit in which it has long been settled policy that competition for traffic would be out of place.

6. *The Inter-territorial organisations created during the war.*—During the war the following bodies and controls have been established on an inter-territorial basis for defence, production, supply and industrial purposes:—

The East African Production and Supply Council.

The Imports and Price Control Inter-Territorial Advisory Committee.

The East African Industrial Council.

The East African Industrial Management Board.

The East African Industrial Research Board.

The East African War Supplies Board.

The East African Cereals Distribution Advisory Committee.

The East African Manpower Conference.

The East African Refugee Administration.

The Civil Directorate of Demobilisation.

The East African Anti-Locust Directorate.

7. *The special war-time executive responsibilities of the Conference Secretariat.*—The Governors' Conference Secretariat, with the organisations dependent on it, is the channel through which relations between the Naval, Military and Air Commanders and the Civil Governments are conducted. It also carries out functions on behalf of the Ministries of Supply, Food and War Transport and deals with such matters as the post-war organisation of civil aviation, the civil side of demobilisation, reabsorption, training and rehabilitation of service men and women of all races, in so far as these are inter-territorial in nature, the central direction of the administration of camps

* Kenya, Uganda and Tanganyika maintain a common Customs tariff. There are, however, two separate Customs Departments; one common to Kenya and Uganda and one for Tanganyika.

† The present income tax in Tanganyika was enacted for the war period only.

for Polish and Greek refugees and the allocation of air passage priorities. It handles correspondence and relations on an East African basis with organisations concerned with supply, transport and similar matters in the United Kingdom, India, the Middle East, South Africa and Washington. The Economic Division of the Conference Secretariat is responsible for production, supply and shipping programmes as they affect the civil populations and for organising the local production and supply of such Naval, Military and Air Force requirements as can be met in East Africa. The Conference Secretariat provides the executive organisation for the bodies described in the preceding paragraph.

8. *Economic organisations created for the war may be required for some years.*—Part of this wartime machinery will no doubt be abandoned gradually now that the war has come to an end, but so far as can be seen at present world conditions will make it necessary to retain important parts of it for some years; while from the East African domestic point of view it may well be found that such measure of control as may be required in the post-war period over industrial development and the production and marketing of agricultural produce should be exercised on an East African rather than a territorial basis.

Some general considerations

9. *Final responsibility of His Majesty's Government to Parliament must be maintained.*—Before turning to the details of the proposals His Majesty's Government in the United Kingdom wish to make two points clear. First the final responsibility to Parliament for the administration of the three territories must continue to rest in future, as it does at the present time, with His Majesty's Government as trustees for the welfare of their inhabitants. Since that trusteeship may be involved in the powers which it is now proposed to organise on an inter-territorial basis, an overriding power of certification will be included, to be exercised if necessary by direction of the Secretary of State for the Colonies. Secondly, the proposals which follow involve neither political closer union nor the fusion of the East African Governments.

10. *Political union in any form not proposed.*—It is clear from expressions of public opinion during the last few years that there exists at the present time in East Africa neither the community of interest nor the public support which a scheme of political closer union would require before it could be put into effect. Constitutional questions of extreme difficulty are involved in all proposals for political fusion or federation and there are no grounds for believing that a general basis of common opinion for their solution could be found. His Majesty's Government in the United Kingdom have accordingly come to the conclusion, after taking the advice of the East African Governors, that political federation or fusion in any of the various forms which have been discussed during the last twenty years is not practical politics under existing conditions. The scheme now put forward would therefore leave the administration of the territories, as at present, in the hands of the three Governments, which would continue to communicate direct with the Secretary of State. The three territories would retain their existing constitutions and the Governments would remain responsible for the basic services of administration and police; health and education; agriculture, animal health and forestry; labour, housing and public works; in addition to other services which it is not necessary to mention here.

11. *Proposals to be published for discussion.*—Subject to the foregoing observations, His Majesty's Government in the United Kingdom now publish for information and as a basis for discussion the following concrete proposals,

which are based on the assumption that, as a result of twenty years' collaboration in the Governors' Conference and the developments which have been brought about by the war, it is necessary to establish a constitutional and juridical framework for the inter-territorial services, including a joint Legislature, in order to provide an effective means of doing what needs to be done.

Proposals for Re-organisation

12. *An East African High Commission and Central Legislature to be created.*—It is proposed that there should be established by Order in Council a constitution for the common services as follows:—

(a) An East African High Commission consisting of the Governors of Kenya, Uganda and Tanganyika;

(b) a central Legislature; and

(c) an executive organisation supported in appropriate cases by advisory boards.

The High Commission would exercise the usual powers of a Colonial Government in respect of the common services entrusted to it and the Colonial Regulations would apply to such services as are not subject to their own regulations. The services to be controlled initially by the High Commission would be scheduled, power being vested in the Secretary of State to add to the schedule. Such additions would normally be made on the initiative of the High Commission, the Governors having engaged in such prior consultations within their territories as they thought proper.

13. *Powers of the Governor of Kenya as Chairman.*—The Governor of Kenya would be the Standing Chairman of the High Commission and at such times as the Commission was not in conference he would have power to carry out its functions, reporting his actions and decisions subsequently to the other Governors. The members of the High Commission would lay down on the one hand the matters which should not be so dealt with by the Governor of Kenya without prior reference to the other Governors, and on the other hand the actions and decisions of a minor administrative nature which need not be reported.

The Common Services

14. *Grouping of the common service departments.*—It is proposed that the common service departments should be grouped under the principal executive officers of the High Commission. These officers would be individually responsible for the administration of their departments under the following organisation:—

(1) *The Chief Secretary to the High Commission*

The Central Secretariat, less the Finance Branch but including the Commerce and Economics Branch.

The Research Institutes and Departments.

The Anti-Locust Directorate.

The Statistical Department.

The Civil Aviation Department.

The Lake Victoria Fisheries Board.

The Industrial Research and Development Department.

The Meteorological Department.

The Chief Secretary would also be responsible for liaison with the Defence Services.

(2) *The Financial Secretary*

The Finance Branch of the Central Secretariat.
 The Customs Department.
 The Income Tax Department.

(3) *The Director of Transport*

The Rail, Port, Marine and Inland Water Services.
 The Railway-operated Road Services.
 The East African Airways Corporation.

(4) *The Postmaster General*

The East African Posts and Telegraphs Department.

The Research Institutes and Departments referred to are the Central Agricultural Research Institute, the Central Veterinary Research Institute, the Tsetse and Trypanosomiasis Research Department, the Lake Fisheries Research Institute and the Cinchona Research Organisation. These would continue to operate under their Directors, general co-ordination being the responsibility of the Chief Secretary, who would be assisted by an Advisory Council for Research which it is proposed to establish.

15. *Executive administration to be the responsibility of five officials.*—It will be seen that, including the Commissioner of Customs as Under-Secretary for Finance, the executive machinery for the administration of the common services would be controlled and directed by five officials, who would form, with the Economic Adviser and the Legal Secretary, the *ex officio* members of the Central Legislature.

16. *General functions of the Central Secretariat.*—The Secretariat would be the channel of communication of the High Commission, the Chief Secretary being responsible for ensuring that matters requiring consideration by the High Commissioners were adequately presented. The Chief Secretary would also be the leader of the official members of the Legislature. He would be authorised to call, and to preside over, such conferences of the principal executive officers as he thought necessary to ensure the efficient co-ordination of policy and procedure. The four principal executive officers, with the addition of the Legal Secretary, would perform the disciplinary functions prescribed for the Executive Council by the Colonial Regulations. The Secretariat would include a Commerce and Economics Branch, with a qualified Economic Adviser, to continue for so long as is necessary the present wartime organisations for production and supply and also to deal with the economic responsibilities which will be assumed in the future on an East African basis. The co-ordination and liaison work now carried out by the Conference Secretariat on behalf of the Governments of Nyasaland, Northern Rhodesia, Zanzibar and the Seychelles would be continued for so long as may be required.

The Legislative Assembly

17. *An Inter-territorial Legislature to be created with the usual powers.*—A Legislative Assembly would be created with power to enact ordinances effective throughout Kenya, Uganda and Tanganyika. Every Bill would require the approval of the High Commission before publication, so that a decision to introduce common legislation would necessitate inter-territorial agreement at Government level. Unofficial members would have no power to initiate legislation but they could introduce motions on any subject under the usual rules.

18. *Assembly to legislate on defined subjects.*—The subjects upon which the Legislative Assembly would be empowered to legislate would be set out in a schedule which could be added to by Order in Council. The subjects might be as follows at the outset:—

- (a) Appropriation, providing for the departmental expenditure of the High Commission;
- (b) Customs and excise legislation, including tariff rates but saving the right of suspended duties;
- (c) Income tax legislation, excluding the fixation of the rates of tax and allowances;
- (d) Licensing of industries;
- (e) Defence;
- (f) Control of commercial motor transport;
- (g) Creation of boards for the control of agricultural industries, including provision for collective marketing;
- (h) Commercial legislation, e.g. bankruptcy, company law, the registration of business names, inventions and trade marks;
- (i) Mining;
- (j) Collection of statistics;
- (k) Inter-territorial communications, i.e. road, rail, air, inland water, sea, posts, telegraphs, telephones and radio;
- (l) Broadcasting;
- (m) Pensions for common staff.

19. *Common legislation need not be centrally administered.*—The fact that legislation on an East African basis was considered desirable for any particular subject would not necessarily mean that the administration of the legislation must be centralised. Whether this was desirable or not would be considered in each case on its merits when the legislation was under discussion.

20. *Regulations normally to be enacted departmentally.*—The legislation which was administered centrally would normally provide for the heads of departments to make regulations with the consent of their respective advisory boards, reserving to the High Commission any regulations imposing fees, charges or penalties.

21. *Composition of the Legislative Assembly.*—It is proposed for consideration that membership of the Legislative Assembly, which would sit under the chairmanship of a Speaker appointed by the High Commission, should be as follows:—

OFFICIAL MEMBERS—7 members appointed

ex officio:—

The Chief Secretary to the
High Commission,
Financial Secretary,
Economic Adviser,
Director of Transport,
Postmaster General,
Commissioner of Customs,
Legal Secretary.

3 members nominated, one each
by the Governors of Kenya,
Uganda and Tanganyika.

2 members nominated by the
High Commission.

- UNOFFICIAL MEMBERS—6 European members elected by the territorial Legislative Councils.
- 6 Indian members elected by the territorial Legislative Councils.
- 6 members, as many as possible of whom would be Africans, nominated by the High Commission as trustees for African interests, two from each territory.
- 2 members nominated by the High Commission to represent Arab interests.
- 4 other members nominated by the High Commission.

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22. *Equality in numbers the only practicable basis for unofficial representation of the three main races.*—The suggestion that the unofficial members of the Assembly chosen by the territorial legislatures should represent the three major communities in equal numbers arises from the impossibility of devising any generally acceptable formula by which to decide the relative importance or the respective claims of the communities concerned. The racial composition of the Legislative Councils differs from territory to territory and none offers a satisfactory general pattern for a joint assembly. It was this question of representation which proved to be the most controversial part of the report on a scheme for closer union made by Sir Samuel Wilson in 1929 and it was found impossible to secure agreement at that time. It does not appear to His Majesty's Government or to the East African Governors that, in the case of a joint legislature of the type now proposed, there is any logical alternative to equal representation.

23. *European and Indian members to be elected by the members of the territorial legislatures.*—In regard to the European and Indian unofficial membership of the Assembly it is proposed that two European members and two Indian members should be elected by the European and Indian unofficial members respectively of each of the Legislative Councils. It is further suggested that while the election of European and Indian members of the Assembly should be in the hands of the European and Indian members of the Legislative Councils, the persons eligible to be elected should not necessarily themselves be members of the Legislative Councils and that it should be open to any member of a Legislative Council qualified to vote for a European or an Indian candidate for the Assembly, as the case may be, to propose, subject to obtaining a seconder similarly qualified to vote, the name of any person normally resident in East Africa.

24. *Life of the Assembly.*—It is proposed that the life of the Legislative Assembly should be four years.

25. *Meeting place of the Assembly.*—The Central Secretariat would be located in Nairobi (as it is now) and it would normally be convenient for the Legislative Assembly to meet there, but it is contemplated that occasional meetings would be held in Uganda and Tanganyika.

26. *Composition of the Finance Committee.*—The Finance Committee on the Budget should consist of the whole of the unofficial members under the chairmanship of the Financial Secretary. A small Standing Finance Committee would be required to consider applications for additional provision in the course of the year and this might consist of the Financial Secretary as Chairman, the three official members of the Assembly nominated by the respective Governors and a European, an Indian and an African unofficial member.

Advisory Bodies other than the Assembly.

27. *Existing inter-territorial advisory bodies to be retained.*—The following consultative and advisory bodies would be retained:—

- (a) *The East African Production and Supply Council.
- (b) The East African Industrial Council.
- (c) *Inter-territorial Imports and Price Control Advisory Committee.
- (d) The Standing Research Committees.
- (e) The Advisory Council for Central Research.
- (f) The East African Publicity Committee.
- (g) *The East African Manpower Conference.
- (h) *The Standing Demobilisation Committee for East Africa.

The Makerere College Council would continue to operate as at present, dealing with the Uganda Government on matters of administration and with the High Commission, through its Chief Secretary, on matters of major policy.

28. *New advisory bodies required.*—As a result of the departmental reorganisation proposed below, the following Boards would be required:—

- (a) East African Railway, Road, Port and Marine Services Advisory Board.
- (b) East African Posts and Telegraphs Advisory Board.
- (c) Central Revenue Board.

Departmental Reorganisation

29. *The Railway, Road, Port and Marine Services.*—(1) It is proposed that there should be a complete amalgamation of the Kenya and Uganda Railways and Harbours Administration and the Tanganyika Railways and Ports Services. The combined administration would have its own capital account and self-accounting budget (on the lines of the existing arrangements for the Kenya and Uganda Railways and Harbours) and a common establishment of staff. The higher control of these Services, subject to the general directions of the High Commission, would form part of the duties of the Director of Transport, who should be a person with experience of transport administration and economics.

(2) The Director of Transport would be the permanent chairman of a Railways and Ports Advisory Board for the combined systems, with two sub-committees, one for the Railway, Road and Inland Water Services and one for the Port and Harbour Services. Co-ordination of policy would be secured through the full Board. In order to function effectively it is essential that this Board should not be unwieldy and limitation is proposed to a total of ten members including the Chairman, two each representing Kenya, Uganda and Tanganyika appointed by the respective Governors with three appointed by the High Commission. The composition of the Board would not otherwise be prescribed either in relation to race or as to the

* To be abandoned when no longer required by conditions arising from the war.

numbers of official or unofficial members. The objective would be to secure for the High Commission the most competent advice available, but it would be desirable that a proportion of the Board should also be members of the central Assembly or of a territorial Legislative Council, in order to maintain contact with public opinion. The annual estimates of the services would be submitted to the Legislative Assembly in the same way as those of any other department.

(3) The executive management of the amalgamated services would be under the direction of a single General Manager with an Assistant General Manager in Tanganyika, who would not necessarily be regarded as the Deputy General Manager of the amalgamated services. The technical departments would be combined under one head of department in each case with assistants in the districts as required. The General Manager of the combined services would not be a member of the Railways and Ports Board, but would be invited, together with any other technical officer, to be present at such discussions as the Board thought fit.

(4) The operation of the combined services would follow the existing Order in Council governing the Kenya and Uganda Railways and Harbours. The amalgamated services would thus be non-profit earning, and surpluses, after working expenditure and proper provision for renewals and reserves had been met, would be applied to the reduction of transport costs to the public.

(5) Amalgamation would involve a financial adjustment between the two existing systems, but, once the question of higher control and the managerial arrangements had been agreed, it should be possible to find a suitable solution to this problem. Consideration of this issue would be one of the first duties of the Railways and Ports Board and the combined management.

(6) The relationship between the combined services and other forms of transport would be decided and controlled by the High Commission and the Legislative Assembly.

30. *Posts and Telegraphs Department.*—It is proposed that the Posts and Telegraphs Department should be converted into a self-accounting department with its own capital account, on the lines of the Kenya and Uganda Railways and Harbours Administration. The assets of the Department would be valued and an interest and redemption payment made to territorial revenues in respect of the capital contribution of each territory as ascertained by this valuation. Thereafter capital expenditure would be financed by loan appropriations, for which the Department would find the interest and sinking fund payments. It would be a matter for consideration whether or not annual contributions should be made from the revenue of the Department to the general revenues of the territories. Any surplus revenue of the Department after its obligations had been met, and after the creation of revenue reserve and capital renewals funds, would be applied to the reduction of rates or the improvement of services. The budget of the Department would be submitted annually to the Legislative Assembly. An Advisory Board would be established consisting of two members from each territory nominated by the respective Governors. The Postmaster General would not be a member of the Board, but would attend meetings with the right to participate in discussions, but not to vote.

31. *Customs Department.*—It is proposed that the Kenya and Uganda Customs Department and the Tanganyika Customs Department should be amalgamated into a common department with headquarters at Mombasa.

32. *The Central Secretariat.*—The Governors' Conference Secretariat would require only minor reorganisation in order to assume the duties proposed for the Central Secretariat. No additional expenditure over present appropriations would be involved.

Finance

33. *Present procedure for allocating costs of common services to continue.*—The allocation of the cost of common services against the revenues of the three territories is decided at present by inter-territorial agreement in respect of each service. It is proposed that this arrangement should be continued and that the proportionate shares of the cost of each department to be borne by the three territories should be settled from time to time by inter-territorial discussions (at which stage the territorial Finance Committees would be consulted) and subsequently approved by the High Commission.

34. *Customs and Excise collections to be distributed as at present less deduction of common expenditure.*—The Customs and Excise collections by the joint Kenya and Uganda department are already allocated between the two territories under a recognised procedure which would now be applied to include Tanganyika. These receipts would be paid over by the joint Customs Department to territorial revenues, less the deductions necessary to cover the departmental expenditure of the High Commission in the proportions which would have been agreed upon. In the case of research, it is proposed that the territorial contributions should be voted as expenditure by the Legislative Councils and should not be recovered by deductions from central revenue.

35. *Income Tax to be imposed territorially.*—In the case of income tax, the ordinance governing procedure would be enacted by the Legislative Assembly and applied throughout Kenya, Uganda and Tanganyika, but the rates of tax and allowances would be fixed by the territorial Legislative Councils and would apply only within the territory concerned. The collections would be paid direct to territorial revenues as they are at present.

36. *High Commission not to carry its own funds.*—The Central Secretariat would have an Accounting Officer and would produce accounts showing the expenditure as against departmental estimates and the revenue against revenue estimates. Control over expenditure would be exercised by the Central Secretariat in the usual way, but the actual accounting work would be carried out by the territorial Accountant Generals' Departments as it is at present and the High Commission Administration would not itself hold cash balances.

37. *Financial procedure summarised.*—In brief the financial commitments of the respective Governments on account of the common services administered by the High Commission would be settled on broad lines in respect of each service by negotiation and agreement, wherever possible covering a period of years. The administration of the services would be a matter for the Central Administration, the Central Legislature and the inter-territorial advisory bodies concerned with particular services, whose advice would be obtained in framing the estimates and programmes.

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