



COLONIAL OFFICE

INTER-TERRITORIAL
ORGANISATION
IN EAST AFRICA

REVISED PROPOSALS

LONDON: HIS MAJESTY'S STATIONERY OFFICE

1947

THREEPENCE NET

Colonial No. 210

Despatch from the Secretary of State for the Colonies to the Governors of Kenya, Uganda and Tanganyika

24th February, 1947.

SIR,

It is now over fourteen months since the proposals for inter-territorial organisation in East Africa were published in paper Colonial No. 191 in December, 1945. These proposals have since been the subject of wide discussion in the East African Territories and, during my visit to East Africa last year, I was able myself to discuss them with members of all communities in each of the three Territories. More recently the Governors of the three Territories have, on my instructions, held consultations with the Unofficial Members of the Legislative Councils and, following these consultations, I am now arranging for modified proposals to be published as a basis for further discussion. The modified proposals are contained in the attached Memorandum, which should be regarded as replacing the proposals for re-organisation contained in paragraphs 12 to 37 of Colonial No. 191. I understand that the three Governments intend to make arrangements for the modified proposals to be debated in the Legislative Councils at an early date.

I have, etc.,

A. CREECH-JONES.

Memorandum of Revised Proposals

1. *Purpose of Proposals*

The following proposals are framed to meet the pressing need for establishing a constitutional and juridical framework for the efficient administration of specified departments and services, now in existence or projected for the near future (collectively referred to as "the scheduled services"), which are, in fact, and indeed by their nature, inter-territorial.

2. *Constitutional framework proposed*

It is proposed that there should be established by Order in Council the following constitution for the administration of the scheduled services :—

A. An East African High Commission consisting of the Officers for the time being administering the Governments of Kenya, Uganda and Tanganyika.

B. An East African Central Assembly.

C. An executive organisation supported in appropriate cases by inter-territorial advisory and consultative bodies.

3. *Proposals regarding form and functions of Central Assembly limited to initial period of four years*

In the first instance the Central Assembly would be established for a limited period of four years. If the Assembly were continued thereafter, the form which it would take, as well as the functions with which it should then be entrusted, would be reviewed *de novo* before the expiration of that period.

A. THE EAST AFRICAN HIGH COMMISSION

4. *Powers and duties of High Commission*

The High Commission would have the following powers and duties :—

- (i) To administer the scheduled services, exercising the usual powers of a Colonial Government in respect of them ;
- (ii) To appoint staff and operate Service Regulations ;
- (iii) To enter into contracts ;
- (iv) To hold land ;
- (v) To appoint advisory and consultative bodies ;
- (vi) To operate a fund into which contributions from the East African territories and from other sources would be paid and out of which all expenditure incurred by the High Commission in respect of non-self-contained services would be defrayed ;
- (vii) To enact legislation applying to East Africa as a whole ;
 - (a) with the advice and consent of each of the three Legislative Councils ;
 - or
 - (b) on specified subjects with the advice and consent of the Central Assembly ;
- (viii) To take over the functions of and to replace the East African Air Transport Authority ;
- (ix) As from a date to be agreed, to take over the functions of and to replace the High Commission for Transport, Kenya and Uganda ;
- (x) To take over the functions of the East African Transport Policy Board.

5. *Chairman of the High Commission*

When the Officer administering the Government of Kenya was the substantive Governor of Kenya he would be the standing Chairman of the High Commission. When he was not the substantive Governor of Kenya, the members of the High Commission would appoint a Chairman from among their number. At such times as the High Commission was not in conference, the Chairman would have power to carry out its functions, subsequently reporting his actions and decisions to the other members of the High Commission. The members of the High Commission would by agreement decide the matters which should not be so dealt with by the Chairman without prior reference to the other members and also what acts and decisions should be deemed to be of a minor administrative nature and need not be so reported. During periods when the Chairman was absent from Nairobi he would have power to delegate to the Administrator to the High Commission such of the functions within his powers as Chairman as he might decide with the agreement of the other members.

B. THE EAST AFRICAN CENTRAL ASSEMBLY

6. *Constitution of Central Assembly*

It is proposed that the Central Assembly should consist of twenty-three members sitting under the chairmanship of a Speaker appointed by the High Commission who would have a casting but not a deliberative vote, and that the members should be appointed as follows :—

- 7 official members appointed *ex officio* from the staff of the High Commission services ;
- 5 members appointed from Kenya ;
- 5 members appointed from Uganda ;
- 5 members appointed from Tanganyika ;
- 1 member of the Arab community appointed by the High Commission.

(Various alternative suggestions have been made for the composition of the Central Assembly. Opportunity will be given for alternatives to be debated in the territorial Legislative Councils.)

7. *Territorial members*

It is proposed that the five members from each of the territories should be appointed as follows :—

- (i) The Officer administering the Government of the territory concerned would appoint one territorial official ;
- (ii) The unofficial members of the Legislative Council of the territory concerned, voting as a whole, would elect one member from among their number ;
- (iii) The Officer Administering the Government of the territory concerned would appoint one European, one Indian, and one African unofficial member. (In Kenya, where European and Indian unofficial members of the Legislative Council are elected, arrangements could be made for these members to be elected by the respective elected members.)

8. *Period of appointments*

All initial appointments and elections would be for a period of four years. Appointments and elections subsequently required during this period would be for the remainder only of the four year period.

9. *Powers and responsibilities of Central Assembly*

The powers and responsibilities of the Central Assembly would be as follows:—

- (i) To consider the annual or any supplementary estimates of revenue and expenditure of the High Commission, of the Assembly and of the scheduled services ;
- (ii) To approve such annual or supplementary estimates of expenditure (with such amendments as the Assembly might think fit) subject, in the case of non-self-contained services, to the relevant contributions from the East African Governments concerned being subsequently approved by the territorial Legislative Councils ;

For the above purposes the Assembly would be authorised to appoint from among its members a Finance Committee on the Budget and a Standing Finance Committee to consider applications for additional provision submitted during the course of the year ;

- (iii) To consider, by question or motion in the Assembly, matters arising out of or affecting the scheduled services ;
- (iv) To legislate on specified subjects.

10. *Matters affecting business in Assembly*

Every Bill to be introduced in the Central Assembly would require the approval of the High Commission before publication, so that a decision to introduce into the Assembly legislation intended to apply throughout Kenya, Uganda and Tanganyika 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 within the scope of the Central Assembly under the usual rules.

11. *Meeting place of Assembly*

The Central Assembly would normally meet in Nairobi but would be at liberty, if it so desired and the Government of Uganda or of Tanganyika agreed, to hold occasional meetings in Uganda or Tanganyika.

C. THE EXECUTIVE ORGANISATION AND ADVISORY AND CONSULTATIVE BODIES

12. *Responsibility of Executive Officers*

It is proposed that the scheduled services 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 :—

(i) THE ADMINISTRATOR TO THE HIGH COMMISSION :

All scheduled services other than those allocated to other executive officers of the High Commission.

The Administrator would also be responsible for the co-ordination and liaison work now carried out by the Conference Secretariat on behalf of the Governments of Northern Rhodesia, Nyasaland, Zanzibar and the Seychelles for so long as might be required.

(ii) THE MEMBER FOR FINANCE :

The Finance Branch of the High Commission Secretariat.

The East African Customs and Excise Department (when amalgamation of the two existing departments has taken place).

The East African Income Tax Department.

(iii) **THE MEMBER FOR TRANSPORT.**

The East African Railways and Harbours Administration (when amalgamation of the two existing systems has taken place).

The Railway-operated Road Services (when amalgamation of the two existing systems has taken place).

Liaison with East African Airways Corporation.

(iv) **THE POSTMASTER GENERAL :**

The East African Posts and Telegraphs Department.

The High Commission would have discretion to vary the allocation of responsibility as between the principal executive officers from time to time as the High Commission might decide.

13. Executive administration

The executive machinery for the administration of the scheduled services would be controlled and directed by the four officials mentioned above, who, together with the Commissioner of Customs, as under-Secretary for Finance, the Economic Secretary (now called Economic Adviser) and the Legal Secretary would form the *ex-officio* members of the High Commission staff appointed to the Central Assembly.

14. Powers of High Commission

It would be open to the High Commission to appoint advisory and consultative bodies as the need for them arose.

15. Existing advisory and consultative bodies

The following advisory and consultative bodies would be retained subject to such modification in membership and function as might be thought desirable when the Central Assembly had been constituted :

The East African Production and Supply Council.

The East African Industrial Council.

The Standing Research Committees.

The East African Publicity Committee.

16. New advisory and consultative bodies to be appointed

It is proposed to appoint :—

(a) An East African Revenue Advisory Board to advise on the administrative procedure to be followed in the collection of customs and excise duties and of income tax and on other matters referred to the Board from time to time.

(b) An East African Posts and Telegraphs Advisory Board.

(c) When a scheme for the amalgamation of the Kenya and Uganda Railways and Harbours Administration and the Tanganyika Railways and Ports Services has been approved, an East African Transport Advisory Council.

D. THE SCHEDULED SERVICES

17. Existing common services

The following departments and services would come under the executive jurisdiction of the High Commission as soon as it was established and would be brought within the purview of the Central Assembly as soon as it was formed :—

The Secretariat of the High Commission, including provision for the Central Assembly and inter-territorial advisory and consultative bodies.

The East African Anti-Locust Directorate.
 The East African Directorate of Civil Aviation.
 The East African Directorate of Training.
 The East African Income Tax Department.
 The East African Industrial Council.
 The East African Inter-Territorial Languages Committee.
 The East African Office in London.
 The East African Posts and Telegraphs Department.
 The East African Production and Supply Council, including Hides and
 Skins Control, Trade Representative in Bombay and other activities
 working under the Council.
 The East African Publicity Committee.
 The East African Refugee Administration.
 The East African Research Services :
 Agricultural Research
 Cinchona Research
 Fishery Research
 Industrial Research
 Insecticide Research
 Medical Research
 Tsetse and Trypanosomiasis Research
 Veterinary Research.
 The East African Statistical Department, including census.
 The East African Tsetse Reclamation Department.
 The Lake Victoria Fisheries Board.
 Liaison with the Defence Services.
 Liaison with the East African Airways Corporation.
 Liaison with the East African Currency Board.

18. *Common services projected for the near future*

The following departments and services would come under the executive jurisdiction of the High Commission and within the purview of the Central Assembly on dates to be agreed after certain preliminary action had been completed :—

The East African Customs and Excise Department, after a scheme for the
 amalgamation of the two existing departments has been approved.
 The East African Information Office, if and when formed.
 The East African Literature Bureau, if and when formed.
 The East African Meteorological Department, on this service reverting
 to civil control.
 The East African Radio-Communications Service, if and when formed.
 The East African Railways and Harbours Administration, including Rail-
 way-operated Road Services, subject to approval of a scheme for the
 amalgamation of the two existing systems.
 The East African Regional Geological Survey, if and when formed.

The East African Regional Topographical Survey, if and when formed.

Inter-territorial services which may come into existence when the purposes to which the East African Regional Allocation under the Colonial Development and Welfare Act will be put have been determined.

Such further Research Services as may be set up on an East African basis.

Makerere College and related institutions for higher education would come within the purview of the High Commission and the Central Assembly as from a date to be agreed.

19. *Additions to the list of scheduled services*

The above list of the scheduled services, in existence or projected for the near future, would not be augmented during the initial period of four years without the clearest expression of approval in each instance in each of the three territorial Legislative Councils. If it were found during this period that a motion for extending the list met with substantial opposition from unofficial members in any of the Legislative Councils, effect to the proposal would not be given without further consideration and further opportunity for debate.

E. LEGISLATIVE POWERS OF THE CENTRAL ASSEMBLY

20. *Legislative powers of Assembly*

The subjects upon which the Central Assembly would be empowered to legislate during the initial period of four years would be as follows :—

- (i) Appropriation, providing for the expenditure of the High Commission, of the Assembly and of the scheduled services, the Appropriation Bill in respect of non-self-contained services being introduced after the relevant contributions from the East African Governments concerned had been approved by the territorial Legislative Councils ;
- (ii) Civil Aviation ;
- (iii) Customs and Excise—administrative and general provisions not including tariff rates ;
- (iv) Defence ;
- (v) Income Tax—administrative and general provisions, but not the rates of tax and allowances. Rates of tax and allowances would be fixed by the territorial Legislative Councils for application within the territory concerned ;
- (vi) Inter-territorial Research ;
- (vii) Lake Victoria Fisheries ;
- (viii) Makerere College and related institutions ;
- (ix) Meteorological services ;
- (x) Pensions, Widows' and Orphans' Pensions, Provident Fund and other matters affecting the staff of the High Commission and of the scheduled services ;
- (xi) Posts and Telegraphs, Telephones and Radio-communications ;
- (xii) Railways, Harbours, and Inland Water Transport—after a date to be agreed when a decision has been reached on the amalgamation of the two railway systems ;
- (xiii) Specific Loan Ordinances in respect of self-contained services ;
- (xiv) Statistics, including census.

21. *Additions to the list of subjects for legislation*

The above list of subjects would not be augmented during the initial period of four years without the clearest expression of approval in each instance in each of the territorial Legislative Councils. If it were found during this period that a motion for extending the list met with substantial opposition from unofficial members in any of the Legislative Councils, effect to the proposals would not be given without further consideration and further opportunity for debate.

F. FURTHER PROVISIONS REGARDING LEGISLATION

22. *Enactments by High Commission*

The subjects upon which the High Commission might legislate with the advice and consent of each of the three territorial Legislative Councils would be decided from time to time with such advice and consent.

23. *Administration of East African enactments*

The enactment by the High Commission of legislation on an East African basis, whether with the advice and consent of each of the three Legislative Councils or with the advice and consent of the Central Assembly, would not necessarily mean that the administration of the legislation must be centralized. Whether this was desirable or not would be considered in each case on its merits when the legislation was under discussion.

24. *Subsidiary legislation*

Subsidiary legislation in respect of Ordinances enacted by the High Commission would normally be made by the appropriate Member of the High Commission establishment after reference to the Advisory Board concerned, any regulations imposing fees, charges or penalties requiring the covering approval of the High Commission.

G. DEPARTMENTAL REORGANISATION

25. *Customs and Excise Department*

It is proposed that the Kenya and Uganda Customs Department and the Tanganyika Customs Department should be amalgamated. Before a scheme to this end was applied, it would require the approval of each of the three territorial Legislative Councils, of the High Commission and of the Secretary of State. Pending approval of a scheme of amalgamation the customs and excise services would not come within the executive jurisdiction of the High Commission or within the purview of the Central Assembly.

26. *Posts and Telegraphs Department*

(1) It is proposed that the Posts and Telegraphs Department should be converted into a self-contained 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.

(2) It is the intention that the Posts and Telegraphs Advisory Board should consist of two members from each territory nominated by the Officers administering the respective Governments, the expenses of the Board and of any sub-committees being provided for from the revenues of the department. 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.

(3) It is proposed that the Posts and Telegraphs Advisory Board (or a selection of members designate appointed as an *ad hoc* committee for the purpose) should be asked to draw up a scheme for converting the department into a self-contained department with its own capital account. Before such a scheme was applied it would require the approval of each of the three territorial Legislative Councils, of the High Commission and of the Secretary of State.

(4) It would be a matter for consideration whether or not annual contributions should be made from the revenue of the Posts and Telegraphs 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.

(5) The annual and supplementary estimates of the department would be submitted to the Central Assembly with effect from the date on which the Assembly was formed and would initially be dealt with in the same way as the estimates of other non-self-contained services. When a scheme for converting the department into a self-contained department had been approved, the Assembly would perform all the functions in relation to such estimates which are performed by a territorial Legislative Council in relation to the annual and supplementary estimates of a territorial department.

27. *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-contained 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 Member for Transport, who should be a person with experience of transport administration and economics.

(2) The Member for Transport would be the permanent chairman of the East African Transport Advisory Council for the combined systems, with two sub-committees, one for Railways, Roads and Inland Water Services and one for Ports and Harbours Services. Co-ordination of policy would be secured through the full Council. In order to function effectively it is essential that this Council should not be unwieldy and limitation is proposed to a total of ten members consisting of the Chairman, two each representing Kenya, Uganda and Tanganyika, appointed by the Officers administering the respective Governments, and three appointed by the High Commission. The composition of the Council would not otherwise be prescribed either in relation to race or as to the numbers of official or unofficial members. The objective would be to secure for the High Commission the most competent advice available. It would also be desirable, in order to maintain contact with public opinion, that a

proportion of the Council should be members of the Central Assembly or of a territorial Legislative Council.

(3) The annual and supplementary estimates of the services, after amalgamation has been approved, would be submitted to the Central Assembly which would perform all the functions in relation to them which are performed by a territorial Legislative Council in relation to the annual and supplementary estimates of a territorial department. The relationship between the combined services and other forms of transport would be decided and controlled by the High Commission and the Central Assembly.

(4) The executive management of the amalgamated services would be under the direction of a single General Manager. The technical departments would be combined under one head of department in each case. The General Manager of the combined services would not be a member of the Transport Advisory Council, but he would be invited, together with any other technical officer, to be present at such discussions as the Council might think fit.

(5) The operation of the combined services would follow the existing Order in Council governing the Kenya and Uganda Railways and Harbours, provision being made in the Instrument covering the combined services for the interests of the territories concerned to be safeguarded in the event of major changes being proposed in railway alignment. The amalgamated services would 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. Working expenditure would include provision for the salary and other expenses of the Member for Transport and his staff and for the expenses of the Advisory Council and its sub-committees, allocated between the services in suitable proportions.

(6) 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. It is proposed that a selection should be made in the near future of members designate of the Transport Advisory Council to be appointed as an *ad hoc* committee to draw up a scheme for the amalgamation of the two railway systems and for placing all ports and harbours under unified administration. Before a scheme to this end was applied, it would require the approval of each of the three territorial Legislative Councils, of the High Commission, and of the Secretary of State.

II. FINANCE

28. *Functions of Central Assembly*

The functions of the Central Assembly in relation to the estimates of scheduled services would depend upon whether the service in question was or was not a self-contained service. When a scheduled service was self-contained, as is proposed in the case of the East African Posts and Telegraphs Department and of the East African Railways and Harbours Administration (when a scheme for the amalgamation of the two existing systems has been approved), the Central Assembly would perform all the functions in relation to such service which are performed by a territorial Legislative Council in relation to a territorial department.

29. *Non-self-contained services*

In all other cases the Central Assembly would approve the estimates or any supplementary estimates of expenditure of the scheduled services (with such amendments as the Assembly might think fit) subject to the relevant contributions from the East African Governments concerned being subsequently approved by the territorial Legislative Councils. The territorial contributions, when approved, would be voted as expenditure by the Legislative Councils and paid into the High Commission Fund. They would not be recovered by deductions from revenue collected by an East African Department on behalf of the several territories.

30. *Allocation of cost*

The allocation of the cost of such scheduled services between the territories concerned 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 (non-self-contained) scheduled service to be borne by the three territories should be settled from time to time by inter-territorial discussions and subsequently approved by the High Commission.

31. *Contributions from East African Governments*

The estimates in respect of these services as submitted to the Central Assembly would show the agreed or proposed basis on which the cost was to be covered by contributions from the East African Governments or from other sources.

32. *Customs and excise revenue*

Until a scheme for the amalgamation of the two existing Customs Departments has been approved, this service would not be a scheduled service and the estimates of customs and excise revenue and of the expenditure of the departments would continue to be submitted, as at present, to the Legislative Councils concerned. When a scheme of amalgamation has been approved and the East African Customs and Excise Department has become a scheduled service, estimates of the customs and excise revenue for the ensuing year under the East African tariff would be placed before the Central Assembly for information, together with an estimate of the apportionment of such revenue between the territories concerned. The customs and excise collections by the joint Kenya and Uganda Department are already allocated between these two territories in accordance with the provisions of Ordinances enacted in both countries. Amalgamation would involve the enactment of a law on similar lines to include Tanganyika.

33. *Accounting procedure*

The High Commission Secretariat would have an accounting officer and would produce accounts showing the expenditure as against departmental estimates and the contributions received from the territorial Governments and other sources to meet such expenditure. Control over expenditure would be exercised by the Member for Finance in the usual way except in the case of the self-contained departments, when responsibility would devolve upon the Member concerned. Actual accounting work, except in the case of self-contained departments, would be carried out by the territorial Accountant-Generals' Departments as it is at present.

34. *Financial procedure summarised*

In brief, it is proposed that the financial commitments of the respective Governments on account of the non-self-contained scheduled services should 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 concerned would be a matter for the executive organisation working under the High Commission, the Central Assembly and the inter-territorial advisory and consultative bodies concerned with particular services, whose advice would be sought in framing the estimates and programmes.

35. *Proposals do not involve an organisation requiring a large increase of staff*

It should also be noted that these proposals do not involve the setting up of an organisation requiring a large increase in staff. The staff required for existing services is already in East Africa, from the three Governors downwards, and most of the services mentioned have been in operation for a considerable time. What has been lacking is a constitutional and juridical framework and a forum for public debate.

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LONDON

PRINTED AND PUBLISHED BY HIS MAJESTY'S STATIONERY OFFICE

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1947

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