

GOVERNMENT PUBLICATIONS
RELATING TO AFRICA IN
MICROFORM

in conjunction with the African Studies Association of
the United Kingdom

General Editor: Neville Rubin

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GOVERNMENT PUBLICATIONS
RELATING TO UGANDA 1900-1962

Introduction by
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The Uganda Gazette

In 1892 the first issue appeared in Zanzibar of The Gazette for Zanzibar and East Africa. (1) Although it was intended to cover the interior of the continent then under the control of the Imperial British East Africa Company as well as Zanzibar, it was inevitably the affairs of the latter which predominated. In each issue, however, there was a paragraph or so under the heading "Affairs in Uganda", and in April 1892 it is recorded that "disquieting rumours of a serious nature have been received by the French Mission regarding the state of affairs in Uganda. No confirmation however is yet to hand nor is anything known on the subject by the Administrator at Mombasa" (2) Uganda was far away, communications were rudimentary and rumour was rife. In another issue of 1892 (3) we read: "A rumour reached here recently to the effect that Mr Ashe and Mr de Winton had been killed in Uganda, but we are glad to say that letters dated the 14th March have arrived stating that both of these gentlemen are perfectly well. Mwanga is reported to have been driven out of Uganda and to have taken refuge in German territory".

In 1899 a separate publication, The Official Gazette for the East Africa and Uganda Protectorates, was started in Nairobi. But again there was the problem of communications, as far as Uganda was concerned, and delay in the publication of information

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- (1) Published in microfilm (editor, A.T. Matson) by EP Microform in association with the African Studies Association of the United Kingdom, 1971.
 - (2) No. 12 of 20th April, 1892.
 - (3) No. 14 of 4th May.

was such that the Gazette was supplemented by a monthly bulletin issued by the Secretariat in Entebbe.

In 1907 Sir Hesketh Bell felt that the time had come for Uganda to have its own Gazette and in December of that year he wrote to the Secretary of State for the Colonies as follows: (1)

"Since 1899, all public notifications relating to this administration have appeared in the Official Gazette of East Africa. The amount paid by Uganda in respect of this service was originally fixed at £100 but in 1906/7 it was increased to £200.

I find that the plant in our printing establishment is now quite adequate for the publication of our Gazette locally, and that the cost of doing the work ourselves would only amount to £80 a year.

There is only a weekly communication with British East Africa and the dissemination of public notices relating to Uganda is often unduly delayed through their transmission first to Nairobi and then back to Entebbe. For instance, Notices dated 12th November did not appear in the Official Gazette until 1st December and were not made known to the public until 9th December."

The first issue of The Uganda Gazette was dated the 1st April, 1908, and cost 20 annas, and from then on it appeared regularly at fortnightly intervals.

(1) Dispatch No. 202 (Bell/Elgin) of 12th Dec., 1907, Public Record Office, C.O. 536/15.

The main purpose of the publication was to make known to the public in general, and to government officials in particular, aspects of government business and, most important, to publish legislation which the government had enacted. Moreover, during the first five years of its life, the Gazette endeavoured to carry on the tradition of its predecessors of fulfilling in some respect the role of a government news sheet by including a supplement to each issue, "Abstract from Official Reports and News"; this included information from reports of administrative officers who had been on tour and of other officials engaged on furthering departmental projects. It is this miscellaneous information, often written in a somewhat racey and informal style, that is of the greatest interest to the reader today.

From the Gazettes of 1909 we learn, for example, that a model laundry was in full working order at Entebbe and that its object was "to teach natives high class laundry work"; (1) that "the Indian elephant 'Fatki' with her mahout" had arrived and that "the sight of an elephant walking through Entebbe was regarded with great interest by the natives who followed in crowds"; (2) and that the Mukama of Bunyoro had been presented by the Governor with "a very large and handsome umbrella of state ... of chocolate and grey brocade with a rich gold fringe surmounted by a handsome brass ornament" with a spread of 6ft and presenting "a very handsome appearance". (3)

(1) Gazette of 15th Jan., 1909.

(2) Gazette of 1st Feb., 1909.

(3) Gazette of 1st March, 1909.

In the same year, there appeared a detailed report on the earthworks at Biggo which have since attracted so much attention from historians and archaeologists. (1)

The principal interest in the series of reports contained in these supplements, however, lies in the information it provides regarding the exceedingly varied and ingenious attempts at this time to develop the natural resources of the Protectorate in an effort to make the territory self supporting. Project after project was initiated; many were short lived and some were almost bizarre in their nature, and the African population must have indeed been left bewildered in the process.

The introduction of the growing of cotton was to be by far the most successful agricultural innovation of the early years of the century (2) and from the first issue of the Gazette we learn that John Piffers of the East African Syndicate, Naivasha had been temporarily engaged to superintend the Government Cotton Seed Farm and that an expert from Kew Gardens had been appointed to supervise the selection of cotton seed. Coffee was to be the other staple crop in Uganda and by 1911 it was reported that "considerable enthusiasm in coffee planting is being shown by the natives living between Kampala and Masaka" (3)

(1) Gazette of 15th May, 1909.

(2) In 1908 it was estimated that the value of the cotton crop for the year would reach at least £50,000 (Gazette of 15th Nov., 1908). In fact, the value of the total export of cotton in the year 1907/8 amounted to £147,028, see H.B. Thomas & Robert Scott, Uganda, pp. 124ff, 505.

(3) Gazette of 15th Dec., 1911.

In 1908 there was published the first of a series of reports by "the Tobacco Expert Kampala". (1) Although some twenty years later the growing of tobacco was successfully established in some areas, the early efforts of the Expert came to nothing. (2) In 1908 it was considered "that there are great possibilities in planting up the smaller forest areas, which already abound with vine rubber, with the indigenous tree rubber". (3)

Other schemes were either abortive or later failed to realise early promise, and a brief reference may be made to some of them. The government placed much reliance on the preparation of beeswax and two Baganda were sent by the Lukiiko in 1908 to German East Africa to learn the art. (4) By 1912, however, it was reported that "the beeswax industry still fails to show any advance in proportion to the amount of instruction devoted to it". (5) Wheat it was hoped, though vainly, would prove to be a staple crop in the Western Province. (6)

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- (1) Gazette of 15th April, 1908.
 - (2) Thomas and Scott, op. cit., p.148.
 - (3) Gazette of 15th Aug., 1908. The Annual Report 1902/3 states that it was hoped that rubber would "be one of the principal industries, if not the chief industry, of the Protectorate". Rubber production in Uganda was effectively killed by the inter-war slump in commodity prices.
 - (4) Gazettes of 15th Nov., 1908 & 15th May, 1909.
 - (5) Gazette of 29th Feb., 1912.
 - (6) Gazette of 1st March, 1910.

In 1909, we learn, "an expert Indian rice grower" had been appointed "to encourage and instruct natives in the cultivation of rice". (1) An extract contained in a Gazette of the same year (2) taken from a Report on the work of the Imperial Institute states that samples of cocoa grown locally had proved to be of good quality and readily saleable and that "in Uganda there seems to be an important future for cocoa cultivation": it was a future which never materialised. The same Report referred to "nests or colonies of cocoons formed by silk worms of Anaphe sp." and stated that the material from these cocoons was suitable for the manufacture of spun silk. Prospects for a silk industry in Uganda were indeed sufficient for a Wild Silk Ordinance later to be enacted. (3) A report on samples from the hair of the Busoga long haired goat raised hopes that it might be marketed as "a substitute for horse hair in the manufacture of hair cloth for upholstery and curled hair for stuffing". (4) In 1908 it was announced that the Governor had ordered twelve goats from Abyssinnia to improve the local breed and that Angora goats from America had been ordered for the same purpose. (5) With a view to the encouragement of the use of donkeys, the Governor, during a tour in 1909, presented these animals to various chiefs; (6)

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- (1) Gazette of 1st May, 1909.
 - (2) 15th June.
 - (3) In 1931; this Ordinance was not repealed until 1963.
 - (4) Gazette of March, 1909.
 - (5) Gazette of 15th April, 1908.
 - (6) Gazette of 1st Feb., 1909.

but, alas, three months later mortality among the donkeys was reported. (1) In 1908 an application was received for a concession to catch and tame wild elephants and, although the Governor was not prepared to grant a monopoly in this respect, he was prepared "under proof of proper safeguards and suitable conditions to permit the capture of wild elephants "with a view to their domestication". (2) Then there was the white ant project. The British East African Trading Syndicate was prepared "to make an experimental shipment of two tons of dried white ants to be put on the home market as a bird food. The Syndicate is now willing to pay 35/- a cwt. delivered at Mombasa. They add 'We should have thought that it would pay better to collect white ants than for instance chillies which are now low in price'" (3) Finally there was the report on "plant ashes from Uganda with reference to their suitability for use as a tobacco manure". (4)

Towards the end of 1912, these "Abstracts from Official Reports and News" ceased to appear and the Gazette assumed the more formal, and perhaps somewhat forbidding, aspect that it has retained to the present day. As has already been mentioned, one of the most

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- (1) Gazette of 1st May, 1909.
 - (2) Gazette of 15th April, 1908.
 - (3) Gazette of 15th June, 1908.
 - (4) Gazette of 15th May, 1909.

important functions of the Gazette was the publication of legislation (1) and, as the bulk of the legislation increased, it became no longer practicable by 1930 to include this in the main body of the Gazette and instead it was printed as separate loose-leaf supplements. These supplements constituted three separate series. First there was the Supplement No.1 series which consisted of Ordinances. Then there was the Supplement No.2 series which consisted of subordinate legislation in the form of legal notices; this was, in fact, delegated legislation where rule or regulation making power had been conferred by Ordinance upon some government authority in Uganda. Thirdly, there was the Special Supplement series consisting for the most part of Bills. This series is of particular interest in that, whereas copies of the Ordinances and legal notices exist in the bound annual volumes of the Uganda laws (although few complete sets of these ranging over the whole of the period exist in the United Kingdom), the Bills were not published in this way and are as scarce as are copies of the Gazette itself. The Bills often contain considerable differences from the Ordinances which followed them, as a result of amendments made, before enactment, by, for example, the Uganda Legislative Council or the Secretary of State for the Colonies, and for the legal historian they have a particular interest in that they contain "Objects and Reasons" which may throw valuable light on the policy behind the drafting of the legislation.

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- (1) Under the Uganda Order in Council, 1902, "All Ordinances, proclamations, regulations or other public notifications shall be published in the Gazette". And under the Interpretation and General Clauses Ordinance the date of commencement of any Ordinance was to be the date of publication in the Gazette, unless some other date was provided in the Ordinance.

Under the Uganda Order in Council of 1902, the Commissioner (1) was empowered to make Ordinances for the administration of justice, the raising of revenue and generally for the peace order and good government of the Protectorate, though in the making of such Ordinances he was to respect native laws and customs unless they were opposed to justice and morality. These Ordinances were to have the force of law unless the Secretary of State exercised his power of disallowance. The Ordinances were to supplement and, if appropriate, replace the basic law of the Protectorate, which consisted of certain applied Indian enactments, in particular the Civil Procedure Code, the Criminal Procedure Code and the Penal Code of India, and in so far as these Indian Codes did not apply, the common law, the doctrines of equity and the statutes of general application in force in England on the 11th August, 1902. (2) Steadily the corpus of these locally enacted Ordinances and the subsidiary legislation grew; when the first Revised Edition of the Laws of Uganda was published in 1910, it consisted of one volume, whereas the Revised Edition of 1964 amounted to 16 volumes. During the first two decades of the century, the policy was adopted of replacing Indian enactments by local Ordinances which, in fact, repeated almost verbatim the parent enactment; a Divorce Ordinance, a Succession Ordinance, an Evidence Ordinance and a Criminal Procedure Ordinance, all closely based on Indian models, were passed in 1904, 1906, 1909 and 1919 respectively. (3)

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- (1) In 1907 his title was changed to that of Governor.
 - (2) See H.F. Morris and James S. Read, Uganda: the Development of its Laws and Constitution, 1966, pp. 19-20, 237-40.
 - (3) See H.F. Morris and James S. Read, Indirect Rule and the Search for Justice, 1972, pp. 115-7.

In 1920 Legislative and Executive Councils were established in Uganda and from then on until 1954 Ordinances were enacted "by the Governor of the Uganda Protectorate with the advice and consent of the Legislative Council"; in 1954 the form of enacting words was amended to "enacted by the Legislature of the Uganda Protectorate." It may be mentioned here that from 1925 onwards the minutes of the proceedings of the Legislative Council (1) were published in the Gazette.(2)

In 1930 a major change in the legal system of Uganda took place when new Penal and Criminal Procedure Codes were enacted replacing the applied Indian Penal Code and the Criminal Procedure Ordinance based upon the corresponding Code of India, thus bringing the criminal law and procedure applicable in the Protectorate far more closely into line with that in England. This radical change in the law is, in one respect, almost unique in the history of colonial administration of this period, in that this change was imposed by the Secretary of State for the Colonies, on the insistence of his Legal Adviser, upon the East African territories despite the almost unanimous opposition to it from the local administration, Bar and Bench. Grattan Bushe, the Legal Adviser, steeped in the traditions of the English legal system, was determined that the Indian Penal Code, which had been drafted by Lord Macaulay and enacted in 1860 and which, although it was to a large extent a codification of the English common law in a rationalised and simplified form, contained many departures from it, should be replaced in East Africa. An unfortunate case concerning the prosecution of a Kenya settler in 1925 in which, Bushe was convinced, less than justice had been done (for which he felt that

(1) The National Assembly from March 1962.

(2) From Nov. 1941 as a special loose-leaf supplement.

inadequacies in the Indian Penal Code had been in part to blame) determined him to insist upon the adoption of a model Penal Code drafted in the Colonial Office for the purpose. This Code was a virtual reiteration of the Nigerian Criminal Code, the principal ancestor of which was the Queensland Criminal Code and more remotely the Code prepared for the United Kingdom by the Criminal Code Bill Commission in 1878. (1) Protests from the East African Governors that they were well satisfied with the existing Indian legislation (which they felt was, in many ways, more suitable for their territories) were unavailing and the new Penal Code, together with a Criminal Procedure Code also more closely in line with the law of England, was enacted in Uganda in 1930. (2)

The period which followed the second world war saw a vast increase in governmental activity as projects for the economic development of the territory were evolved, and to these were added during the governorship of Sir Andrew Cohen ambitious plans for the expansion of the social services, all of which was reflected in increased legislative activity. Then during the years immediately before independence there were the various enactments effecting constitutional changes necessary to bring the colonial era to a close - the last of these being the Independence Order in Council (3) which was contained in a supplement to the Gazette of the 6th October, 1962 and which had as a Schedule the Constitution of Uganda - semi-federal in character - which was to remain in force with little amendment until 1966.

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- (1) See, H.F. Morris, "How Nigeria Got its Criminal Code", Journal of African Law (1970) Vol.14, pp. 137-54.
- (2) Morris and Read, Indirect Rule and the Search for Justice, pp. 119-26.
- (3) Which was not, of course, a local enactment.

Thus we have in the body of the Gazettes and their legal supplements the whole corpus of the law locally enacted between 1908 and the ending of colonial rule which the independent government of Uganda inherited as the principal source of the general law of the land.(1) Considerably before 1962, the other sources of the general law had already been eclipsed by this body of local Ordinances; by 1963 only one applied Indian Act still remained in force in Uganda and the residual applicability of the English common law, doctrines of equity and statutes of general application was progressively counting for less and less; furthermore, the comparative paucity of local case law has emphasised the importance of statute law. On the subject of case law, it may be worth mentioning here that during 1920, 1938 and 1939 and from 1948 to 1952 the Gazettes contained Law Report Supplements. Nearly all the cases reported in these supplements were, however, later included in the Uganda Protectorate Law Reports. (2)

The last Gazette included in this series is that published on the 6th October, 1962, three days before Uganda became an independent state. In fact, the Gazette has continued to be published in virtually the same form as during the colonial period up to the present day.

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- (1) The term "general law" is used in contradistinction to the customary laws which also form part of the legal system of Uganda, but with more restricted applicability.
- (2) Volumes III and VI.

There are few complete (or almost complete) sets of the Uganda Gazette in the United Kingdom. (1) The set which has been used for this publication is that held by the library of the Royal Commonwealth Society, kindly made available for the purpose by the Society. (2) This set of Gazettes is almost complete, together with the supplements; the main gaps are as follows. The legal supplements are missing for the years 1930-1932; (3) certain gaps occur during the period of the second world war and, in particular, the Gazettes with supplements for the period 1st January 1940 to 14th February 1941 were destroyed when the Society's building was bombed; and there are a few Gazettes and supplements missing during 1960-1962. These gaps have, as far as possible, been made good on the microfilm from other sources.

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- (1) Sets exist in the Public Record Office and in the British Museum.
 - (2) I should like to record my thanks to Mr Donald Simpson, the Librarian of the Society for his kindness and help while I was working on these publications.
 - (3) And Bills for 1924, 1925, 1927 and 1929.

The Blue Books (1) and Annual Reports.

The blue book and the annual report were features of considerable standing in 19th century colonial administration. Colonial Regulations of the time state: (2)

"The Annual Blue Book containing accounts of the Civil Establishment, of the Colonial Revenue and Expenditure and of various statistical particulars etc. must be completed as early as possible after the close of each year. The various returns which it comprises must be filled up with the greatest possible accuracy and the Statistical Tables must be full and complete. Blank copies of the book in sheets will be annually transmitted to each Colony from the Colonial Office."

The bare statistical material which the Blue Book provided was somewhat daunting, and the annual report was intended to present in a readable form the gist of the information which the blue book contained. The directions given in the Colonial Regulations referred to above to colonial governors as to the compilation of the annual report were somewhat terse:

"The Governor, in transmitting the 'Blue Book' to this Department, must accompany it with a report which should be written on one side of the paper only, exhibiting generally the past and present state of the Colony and its prospects under the several heads specified in the Book. That Report shall be laid before both Houses of Parliament.

(1) I have sought to include in this series the entire run of Uganda Blue Books 1901-1945; unfortunately three (those for 1939, 1942 and 1944) were not available.

(2) Revised Edition of Rules and Regulations for H.M's Colonial Service, 1843, p.59.

It should be, as much as may be, complete within itself and, if it be unavoidable to append other returns than those to be found in the Blue Book reported upon, they should be of a summary character and clear of such local details as are of no use and significance elsewhere than on the spot; bearing in mind that the extent to which what is printed for Parliament shall be circulated and read will depend on the degree to which it is substantiative and succinct."

Not all governors, however, provided reports of the required standard. In 1887 governors were informed (1) that, whereas hitherto it had been the practice to wait until a sufficient number of reports had been received to form a volume, it was now proposed to publish reports separately as they arrived, but, it was added, "It has been decided only to publish the more interesting and important Reports...because in some cases the Reports contain too little to be worth producing separately". Lord Ripon, in his Circular in 1894 (2) was more outspoken. There had "of late years been a marked improvement", he stated, "in the Diplomatic and Consular Reports on Trade and Finance", but "the Colonial Reports with some exceptions still remain much what they were and leave something to be desired in their scope and composition". In particular, too much petty and uninteresting detail was included; there were even "instances on record of the erection of a flagstaff having been set forth in the list of public works and of its having been announced that the holders of petty offices carrying a few hundreds a year of salary had taken leave and been temporarily replaced by substitutes whose names could be as little known to the public here as those of the substantive officers." Chamberlain in his Circular in 1899 (2) complains "of the very meagre

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- (1) Colonial Circular Instruction of 2nd Dec., 1887; copy enclosed with dispatch of 2nd June, 1904 to Commissioner of Uganda, F.O. 2/833.
- (2) Copy also enclosed with dispatch of 2nd June, 1904.

information which many of the Reports still afford", and with the Circular was enclosed a "Suggested Outline of Model Report on the Annual Blue Book".

During the opening years of the present century, however, the Uganda Protectorate was the responsibility of the Foreign Office, and not of the Colonial Office, and it was to the former Office that the annual reports and blue books were sent. Sir Harry Johnston had arrived in Uganda as Special Commissioner in 1899 and in 1900 he submitted a preliminary report "giving a resumé of my impressions of the Uganda Protectorate, its climate, people, resources and present conditions". (1) This report, which was published as Cd. 256, was accompanied by three maps (published as Cd. 361) showing the altitude and salubrity of each district, the navigability of lakes and rivers and the density of population. A year later there followed his General Report, (2) published as Cd. 671. In this Johnston expresses an enthusiastic confidence in the future of Uganda. Having reviewed the early history of the administration of the Protectorate, Johnson points out that, since 1894, Uganda had cost Britain £1,394,000, with £4,900,000 in addition for the construction of the railway. (3) But he was certain that "the Uganda Protectorate will not only justify and redeem the money expended on its creation and development, but will further console us for similar expenditure in the less richly endowed Protectorate of East Africa". (4)

(1) F.O. 2/298.

(2) F.O. 2/462.

(3) P.7.

(4) P.19.

That the Protectorate had resources for the development of profitable trade, he was convinced, and several pages of the report are devoted to discussing these and to putting forward certain suggestions, on which the Foreign Office had the following observations to make: (1)

"The system of the collection of rubber through the natives under Government supervision and its sale by them to European merchants at a reasonable price is one to which a fair trial should be given. At the same time, his Lordship would not wish to see it made impossible for bona fide settlers or traders to embark on the collection of rubber themselves, provided that they did so in accordance with the directions of the Commissioner and subject to such restrictions as he may find it necessary to impose.

Should any such persons apply to you, you should draft a contract in such form as you may think desirable and submit it for approval. It should contain a clear indication of the locality and area of the proposed concession.

In this connection, Sir Harry Johnston suggests that the Missionary Societies might give assistance by imparting technical education in their schools. Lord Lansdowne has been in communication with Bishop Tucker on this subject, and understands that the English missionaries are very willing to give instruction to the natives in the economical collection of rubber. In a later passage in his Report, Sir Harry Johnston expresses the hope that the missionaries would also help the Administration in general education and suggests that an arrangement might with advantage be made by which they should agree to teach the English language. Lord Lansdowne is glad to find that they are already most anxious

to do so, and he is considering whether it may not be possible to make them some return for any services of this kind which they may render to the Protectorate."

Johnston then goes on to indicate the general lines on which the Protectorate should be administered, an approach which is in close accord with the Lugardian principles of indirect rule. With this the Foreign Office were in agreement. (1)

"The lines indicated by Sir Harry Johnston for dealing with the natives appear to be those upon which we have hitherto acted. The natives should, so far as is compatible with good order and the principles of humanity, be left to settle their own affairs in their own way under the general supervision of the European Administration. The exact measure of European interference must depend upon local circumstances and the tact of the officers administering the Government."

Johnston goes on to make clear his affection for the Baganda: "there is no race like to them among the negro tribes of Africa. They are the Japanese of the Dark Continent, the most naturally civilized, charming, kindly, tactful and courteous of black people". Other observations which the Foreign Office had to make on the contents of Johnston's report are as follows: (2)

"With regard to Mission work and assistance to

(1) Ibid.

(2) Ibid.

existing Societies, his Lordship will, as already stated, consider the possibility of some form of state assistance, direct or indirect. He quite agrees that the areas of land made over to them are already so large that assistance, if given, must be looked for in some other direction.

The question of steamers for the upper reaches of the Nile and for Lakes Albert Edward and Albert is one which must depend upon the possibility of economical transport.

The launch 'Victoria' might in that case be available for the Kakonge section of the river; but you should report on this point as well as on the class of launch best suited for the different services.

For the purposes of road making, you have the services of the officers who will be relieved by the completion of the railway from transport work east of the Lake; and then you are authorized to make the best possible use of the labour which may be forthcoming in lieu of hut tax; any arrangement of this kind must, however, be accompanied by sufficient precautions to guard against abuses of the practice and the infliction of hardship on the labourers....

The erection of better houses and of more hospitals for the staff is under consideration, and his Lordship has submitted to the Lords Commissioners of H.M.'s Treasury a scheme for a contract - sanatorium and hospital - in the highlands east of Lake Victoria.

You should insert in your next estimates a sum for the erection of a small hospital at Entebbe...

As a guide to your general policy, his Lordship would wish you to bear in mind that efficiency and economy will both be promoted by concentrating the available staff at important centres, rather than by its dispersal over a number of isolated and undermanned stations. Also new outposts should be created without special authorisation from the Secretary of State."

The Foreign Office dispatch also stated that:
"The large question of the future arrangements for the administration of the two Protectorates is receiving his Lordship's attention. The time for their complete amalgamation does not seem to him to have yet arrived."

In fact, Johnston's General Report does not deal with this vexed question, which was the subject of a separate confidential report sent to the Secretary of State a month later. (1) This recommended that Uganda and the East Africa Protectorate should be placed under one administration, in charge of a High Commissioner, established on the Mau Plateau; (2) "there would be absolute union in finance and a single budget would be made up for the two Protectorates". This proposal, however, came to nothing.

The first of the series of annual reports based upon the blue book for the year, which would be submitted at or about the same time, was Hayes Sadler's report of 1902/3. (3)

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- (1) Enclosure to dispatch of 9th Aug., 1901, F.O. 2/463
 - (2) Which then formed part of Uganda's Eastern Province.
 - (3) Cd.1839. The report was for the year ending the 31st March, 1903, because, until 1920, the financial year of the Protectorate began on the 1st April.

This was a year during which certain important constitutional events had occurred; the Uganda Order in Council, replacing in Uganda the Africa Order in Council, 1889, and laying down the constitutional and legal framework of the Protectorate, was enacted, and the Eastern Province of Uganda, with its highlands climatically suitable for white settlement, was transferred to the East Africa Protectorate during 1902. It was a year of which the Commissioner could write with quiet confidence:

"I am glad to say it has been one of unbroken quiet free from all internal disturbance. The Government has, accordingly, been able to devote its energies to progress in the different branches of civil administration. Its attention has been principally directed to the preservation of peace already established, the collection of revenue with the least hardship to the taxpayer, the encouragement of trade and agriculture and the passing of enactments calculated to promote the welfare of the people and the prosperity of the country."

But all was not well, for the sleeping sickness epidemic had started its ravages, with the result that revenue had been "adversely affected thereby and the general advancement of the country in a measure retarded".

In May, 1904 the Foreign Office decided that something must be done about the annual reports "to put the condition of our Protectorates more clearly before the House and the Public". (1) The Indian

(1) Minute to Lord Percy, F.O. 2/833.

"small blue book" was examined as a possible model and rejected as too detailed; in any case it was felt that it would

"be preferable for our Protectorates, which must before long be handed over to the Colonial Office, to follow Colonial, rather than Indian, models. We have already in working order the annual blue book. All we do now is to assimilate our annual reports to the Colonial "Report on the Blue Book". The Blue Book remains in manuscript. But the Colonial Office experience is the publication of the report on the blue book induces those people who genuinely desire information to go to the Office and consult the manuscript volume which is there open for such inspection. It is this system which we thought of introducing as otherwise we find that the information contained in the blue book is not made use of to its fullest extent."

The Commissioner of Uganda was, accordingly, informed (1) that "the method of dealing with the information collected in the blue book which prevails in the Colonial Service should also be followed in the protectorates administered under this department"; the Colonial Office Circulars of 1887, 1894 and 1899, referred to above, were enclosed, together with a copy of an annual report on Ceylon, which was to serve as a model.

The dispatch from the Foreign Office arrived too late for the Commissioner to take account of it in the preparation of his report for 1903/4, (2) which

(1) Dispatch of 2nd June, 1904.

(2) Cd. 2250.

was in the same form as that for the previous year. Again the year is stated to have been one of unbroken peace and sure, but slow, progress, despite the unabated scourge of sleeping sickness.(1) The Eastern Province highlands being now lost to Uganda, it had become clear that the Protectorate would never

"be a white man's country in the sense that South Africa is and part of East Africa will prove to be. The climate is not conducive to European colonisation nor to European manual labour in the open. The development of the Protectorate will be by native agency under European supervision; and it is here that the opportunities for British enterprise come in. Land can be obtained in freehold up to 1,000 acres (2) and under lease in larger plots on favourable terms under the Land Regulations."

The report for 1904/5 was prepared in accordance with the instructions contained in the dispatch from the Foreign Office of the previous year and was sent to the Colonial Office in August, 1905, four months after responsibility for the East African protectorates had been transferred to that Office from the Foreign Office; it was published as No. 467 of the Colonial Annual Report series.

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- (1) The report for 1906/7 states that "the end of the year was marked by the inauguration of the measure for the complete evacuation by the inhabitants of the fly infested shores of the Lake, thus removing at one swoop that main source of infection." The report of the following year mentions that "the measures which have been taken during the last 3 years to stamp out sleeping sickness are proving effectual."
- (2) Sale of freehold to non-Africans was, on orders from the Secretary of State for the Colonies, discontinued from 1916.
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This and subsequent reports prior to the outbreak of the first world war stress the steady, if unspectacular, economic expansion of the country. Although the Protectorate was in receipt of a grant in aid from the Imperial Treasury until 1915, it was slowly progressing along the road to financial self-sufficiency. It was the rapid and successful development of the cotton industry which, more than any other factor, contributed to the economic strength of the Protectorate. By 1908 cotton had already taken the first place in the list of the country's products; (1) exports of cotton in 1904/5 amounted to 10 tons worth £235, in 1908/9, 1152 tons worth £41,232 and in 1909/10, 2,116 tons worth £59,596. (2) But the two main factors inhibiting the increased growing and marketing of cotton, as of other crops, was the lack of adequate transport facilities and the lack of adequate finance to develop these. In the report of 1907/8 it is stated plaintively that:

"The limitations imposed by the smallness of the financial resources at the disposal of the Administration bar the prompt execution of any great programme of road construction, but every penny that could be spared from other services during the year under review was laid out on roads....The experiments that are being made with regard to motor transport are giving encouraging results."

By 1914 the whole of the area of the Protectorate was not, as yet, administered; Rudolf Province (later to

(1) Report of 1907/8.

(2) Report of 1909/10.

be transferred to Kenya) and the districts of Karamoja and Lohor had not yet been brought under administrative control, whilst the administration of Lango District had only begun in 1909.(1)

The inter-war period in Uganda is one associated, particularly after the appointment of Sir William Gowers as Governor in 1925, with the implementation of indirect rule as re-formulated in East Africa at this time, with its emphasis upon the building up and modernising (though in accord with what the administration believed to be indigenous traditions) of the native authorities. It was to be through the agency of these bodies, rather than through that of the legislative council, which came into being in 1920, that African advancement was believed to lie. Politically, it was a period of tranquility, despite the Bataka question in Buganda and the controversy over closer union of the East African territories. The Protectorate Government's plans for the social and economic development of the territory were, however, governed, and in the event severely restricted, by the financial state of the country which lay at the mercy of world economic forces. The annual reports of the period, which were primarily a presentation and interpretation of the statistical information contained in the blue book, bring out clearly the sombre course of economic events.

The third decade of the century opened with a certain optimism. In the report for 1920 (2) we read

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- (1) The report for 1909/10 gives an interesting account of the district.
 - (2) Report for April to December, 1920. The report for 1918/9 had been the last report to be presented to Parliament as a Command Paper.

of the proposed development loan of £100,000 (1) from the Imperial Treasury for the following purposes: improvement of transport and communications; development of cotton, plantation crops and natural resources; the building and equipment of hospitals, laboratories, venereal disease clinics and dispensaries, swamp drainage and other measures for the eradication of malaria; a campaign against epidemic diseases of livestock; the establishment of training schools and technical institutes in many branches including agriculture; the provision of buildings for an increased staff; and the reclamation of tsetse areas.

1921 was a year of depression. (2) There was some improvement during the next two years, followed by boom conditions in 1924. Although the following year was also one of prosperity, there was an air of caution in the annual report: "Uganda is at present dependent almost entirely upon its cotton crop. Any setback in its cultivation or marketing would instantly be reflected in the trade of the country." It was added that Africans were being encouraged to grow other economic crops as well as cotton. Portents in 1927 were ominous: the rains had failed and the cotton crop was poor and the overseas price for raw cotton fell. A Finance Committee was appointed to investigate questions relating to revenue and expenditure and, as a result of its recommendations, services were curtailed and "the severest economy consistent with efficiency was introduced into every department". In 1928 there was a partial recovery and 1929 was a prosperous year with the largest cotton crop that had ever been recorded. But 1930 was a disaster. Cotton was hit by blackarm disease, bad weather and a falling market. "Uganda had, in fact, been as badly caught

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- (1) Later limited to £550,000 at 5% interest, Thomas and Scott, Uganda, pp. 226-7.
 - (2) The Report for 1921 is erroneously headed April-December 1920.

in the 'economic blizzard' affecting most of the world as any of her neighbours. Necessity to 'go slow' with development activity conceived in more prosperous times was quickly realised and measures of retrenchment have had to follow."

Slow but fairly steady improvement in the economic situation took place from 1933 to the outbreak of the second world war and the last pre-war annual report, that for 1938, tells of at least one landmark in the social progress of the Protectorate at this time - the establishment of Makerere College.

No annual report after that for 1938 was published until that for 1946. Attitudes towards colonial administration, of both the Imperial and local Governments, were now very different from those of the inter-war period, and it is not surprising that the annual report was from now on a very different publication from its predecessors. The latter had been slim volumes based upon the statistical information in the annual blue book. But the blue book for Uganda had itself appeared for the last time in 1945. The post-war reports with their glossy photographs were exercises in public relations, setting out for the public the endeavours and achievements of the Government and its departments during the year.

Between 1946 and 1952 the main concentration of the Protectorate Government's activities was on economic development.(1) Finance for this was available from the soaring commodity prices on the world markets and from money available for development and research under the Colonial Development Act of 1940. The construction

(1) See Morris and Read, Uganda: the Development of its Laws and Constitution, pp.26-8.

of the hydro-electric station at Jinja was expected to provide cheap and abundant electricity and give power for the newly established industries such as the lime deposit works at Tororo and the Kilembe copper mine. In the constitutional field, there was the reconstitution of the native authorities as African local governments and the expansion in 1949 of the Legislative Council, on which four Africans now sat.

In 1952, with the appointment of Sir Andrew Cohen as Governor, the emphasis of government policy, and with it the pace of change, altered. This emphasis was first placed upon the rapid expansion of the social services (especially education) and then on constitutional reform with the prospect of independence in the foreseeable future. Local government was remodelled and a ministerial system was introduced at the centre. Cohen's governorship was, however, overshadowed by the decision to exile the Kabaka and by the subsequent events which culminated in his return and the conclusion of a new Buganda Agreement in 1955.

By the time Cohen's governorship came to an end at the beginning of 1957, it was clear that independence was imminent and for the next six years the Protectorate Government was occupied with the rapid series of constitutional changes necessary to effect this transfer of power as smoothly as possible. Its task was throughout made the more difficult by the intransigence of the Buganda Government. Direct elections for the Legislative Council were provided for in 1957, although these did not take place in certain parts of the country, notably Buganda, and it was not until 1961 that direct elections were held throughout the Protectorate, elections which brought to power Benedicto Kiwanuka as Chief Minister. In 1960 a

Commission was appointed "to consider the future form of government best suited to Uganda and the question of the relationship between the Central Government and the other authorities in Uganda". In September, 1961, a Constitutional Conference met in London and agreement, on the basis of the recommendations of the Commission, was reached on a Constitution for a period of internal self-government. The report for 1961, the last Colonial Annual Report for Uganda, states:

"The year began under depressing constitutional circumstances but ended with an entirely different and most satisfactory situation. This follows the success of the Constitutional Conference in September-October and laid the foundation for internal self government in March 1962 and complete independence in October of that year if all goes well."

In fact, both these events forecast took place.

Native Administration (1)

Sir Philip Mitchell came to Uganda as Governor in 1935. Previously he had been Chief Secretary, and before that Secretary for Native Affairs, in Tanganyika. There he had worked under Sir Donald Cameron and had been the major source of inspiration for Cameron and his dedicated band of followers in the Tanganyika administration in their formulation and implementation of a system of native administration in accordance with the principles of indirect rule as they conceived these should be applied. In Uganda during the decade prior to Mitchell's arrival the phrase "indirect rule" had been much in vogue and the Tanganyika innovations had been sympathetically viewed and regarded as an example which should be followed. Nevertheless, the relationship between the native governments and administrations and the Central Government which Mitchell found on his arrival in Uganda was not, in his opinion, in accord with the principles of indirect rule as he understood them, and he soon made his views known.

First there was the kingdom of Buganda which, as a result of the Agreement of 1900, stood constitutionally in a very different position vis a vis the Central Government from the rest of the country. Here was a native state in a treaty relationship with the protecting power in respect of which the term "indirect rule" was, Mitchell felt, inadequate, the correct term being instead "protected rule". The existing method of administration, whereby a close and detailed check was kept by the district officers upon the administration of the rural areas

(1) By Sir Philip Mitchell, Government Printer, Entebbe, 1939.

by the Kabaka's chiefs, was in direct conflict with Mitchell's concept of protected rule, and he embarked upon an ambitious policy of replacing this system of control by one which would entail the appointment of advisers who would operate at the headquarters of the Buganda Government and would not concern themselves with the detailed administration of the kingdom. For various reasons, this policy could not be fully implemented until the governorship of Mitchell's successor, Dundas.(1)

As regards the administration of the rest of the Protectorate, with which the pamphlet Native Administration is concerned, Mitchell felt that because the intrusion of the provincial administration was so great and because, in particular, the nature of the chieftaincy meant that chiefs were, in effect, the agents of the Central Government, the term indirect rule could not really be applied at all; in fact, the system of administration here was virtually "direct". The reason for the differences between the situation in Tanganyika and in Uganda lay largely in the differing circumstances under which the native authorities in the two territories had been developed. In building up the native authorities in Tanganyika, Cameron had, to a large extent, a tabula rasa to work upon: the German system of direct rule through akidas which had operated throughout a large part of the territory had been swept away and tribal authorities were sought out and elevated into native administrations in accordance with the prevailing doctrine with its emphasis on the traditional nature of these authorities, normally hereditary in character.

(1) See H.F. Morris, "Sir Philip Mitchell and 'Protected Rule' in Buganda", *Journal of African History*, XIII (1972), 305-23.

In Uganda, on the other hand, the development of the native administrations had been a gradual process. As the protecting power had extended its authority to the north and east beyond the Nile during the first two decades of the present century, the Buganda system of administration through county, sub-county and parish chiefs was established. In these areas, however, the traditional pattern of society was very different from that in Buganda, many of the tribes being, in fact, acephalous, and the new system was something completely foreign to their traditional structure. During the early years of the century, it was usual for the Central Government to appoint as chiefs persons, such as clan heads, who possessed some local authority, often with "Baganda agents" to help and guide them in their work. After the first world war, however, particularly after the withdrawal at this time of the Baganda agents, it became the normal policy to appoint as chiefs persons who did not necessarily hold any traditional authority and whose claim to office lay in their superior education or ability, often brought to the notice of the district officers through their previous employment in some form of Central Government service. Although these men would be natives of the district concerned, they would not necessarily come from the areas which they were appointed to administer. Although these chiefs were an integral part of the native administration structure and had many of the rights and duties of traditional chiefs, nevertheless, since they were appointed and dismissed by the Central Government whose advice they were required to take and whose policy they were required to implement, they were, to a certain degree

the representatives of the Central Government.(1)
This was a situation which Mitchell deplored.

In his pamphlet Native Administration Mitchell elaborates upon what he considers to be the defects of a "direct" system of administration and adds that in Uganda there is a further defect in that there is a general misconception that what is, in effect, in all essentials "direct" administration is, in fact, "indirect" and a chief with no traditional rights may be imposed upon the people and given the support and trust of the administration "as if he were in fact entitled by custom or heredity to the power which he wields". However, he realised that "we cannot now put the clock back and refuse to take account of 40 years of administrative development", and upon this basis he lays down certain principles for the guidance of administrative officers in developing the native administrations.

It was not until 1949 that the native administrations were reorganised by statute (2) under the name of African local governments; they now had councils with elected members and were thus put upon a firm basis for their evolution into organs of democratic local government. The next stage came with the District Administration (District Councils) Ordinance of 1955 establishing district administrations composed of elected councils employing the chiefs as their executive officers. Thus was a transition smoothly effected in Uganda, and the independent

(1) H.F. Morris and James S. Read, Indirect Rule and the Search for Justice, pp.27-33.

(2) African Local Governments Ordinance 1949.

Government inherited a local government organisation which was viable and efficient. In Tanganyika, on the other hand, it proved impossible to make this transition from the native administration structure which Mitchell and Cameron had built up, and after independence the chieftaincy was swept away completely from the administrative scene.

Handbook on Native Courts for the
Guidance of Administrative Officers(1)

This handbook for administrative officers prepared by H.R. Hone, the Attorney-General of Uganda,(2) expounds upon the manner in which the native courts should operate and how the district officers should exercise their wide powers of supervision (including those of revision and appeal) in respect of these courts.

The dual system of courts, involving native courts (basically administering customary law with jurisdiction over Africans only) and a High Court and magistrates' courts (administering basically the received English law and locally enacted Ordinances with jurisdiction over all races), was a common feature of British colonial administration in Africa, and in East Africa such a system was introduced at the outset of colonial rule. Although it was the administrative officers, and not the judiciary, who were, in practice, responsible for the supervision and control of these courts, the High Courts possessed ultimate control (including powers of appeal) over the native courts and the district officers carried out their functions in respect of these courts in their capacity as magistrates.

(1) Government Printer, Entebbe, 1941.

(2) Later Major-General Sir Ralph Hone, Governor of Borneo 1949-54 and Head of the Legal Division at the Commonwealth Relations Office 1954-61.

Donald Cameron soon after his appointment as Governor of Tanganyika in 1925 developed his philosophy of indirect rule as he believed it should be applied in East Africa, thus re-interpreting an older and more pragmatic concept. Indirect administration, as Cameron understood it, lay basically in the building up, developing and guiding of native authorities by the district officers, and the native courts formed one of the most important arms of the native administrations. But it was, Cameron was convinced, impossible for the district officers to develop the native courts along the lines which he considered essential for his policy unless such officers had undivided responsibility for them in their capacity as administrative officers responsible ultimately to the Governor, and not as magistrates responsible to the Chief Justice, and unless interference by the members of the judiciary, with their legalism and lack of knowledge of African society, was eliminated. Cameron accordingly enacted, with the Secretary of State's approval, a Native Courts Ordinance in 1929 which removed the native courts completely from any control by the High Court and established a chain of appeal through administrative officers to the Governor.(1) Both Kenya and Uganda wished to follow Tanganyika's example and the former succeeded in getting the Secretary of State's approval for a Native Tribunals Ordinance which was enacted in 1930 and which, in general, followed the Tanganyika model. Uganda also drafted

(1) See H.F. Morris and James S. Read, Indirect Rule and the Search for Justice, 1972, pp. 141-7.

a Bill closely in accord with the Tanganyika Ordinance, although, in fact, Gowers the Governor had apparently already determined upon this step independently of Tanganyika. But the Bill ran into difficulties, the Uganda Law Society protesting strongly to the Colonial Office against its enactment, mainly on account of the abolition of the High Court's powers. A more serious obstacle lay in the changed attitude in the Colonial Office. Grattan Bushe, who had become Legal Adviser to the Secretary of State in 1931, was a bitter opponent of "administrative justice", (1) and, largely as a result of his influence, attitudes towards legislation on the Cameronian model changed and Uganda was advised that a link with the High Court should be retained. Negotiations on the Uganda Bill dragged on and, as the 1930s progressed, opinion in the Uganda administration itself altered on the question of the exclusion of the judiciary from native court affairs. (2) It was not until 1940 that the Native Courts Ordinance was finally enacted and, when it was, it did not make any radical change in the existing

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- (1) The question of the control of the native courts was only one aspect a much wider controversy which exercised administrative and judicial minds in the Colonial Service at this time; namely were administrative or judicial officers the better suited to dispense justice to an undeveloped African society and should the basically English law and procedure applied be modified in the light of local administrative and social needs? Ibid, ch.2.
- (2) Morris and Read, op.cit. pp.147-52.

position, (1) the High Court retaining its supervisory and revisional powers and the district officers continuing to perform their duties in respect of the native courts in their capacity as magistrates.

The 1940 Ordinance did, however, spell out in much greater detail than previously the powers and functions of the native courts (2) and of the supervisory officers responsible for their control and development. The Ordinance did not apply to Buganda and a separate Ordinance (3) was passed at the same time on similar lines for this kingdom, but making due allowance for the special position which the Buganda courts enjoyed under the Agreement of 1900.

The Native Courts Ordinance did not, as has been made clear, embody the Cameronian principle of the exclusion of judicial control; nevertheless, the Handbook still embodies the indirect rule tenets of the inter-war period. Indeed the following sentence

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- (1) The Handbook states in para. 1, "The purpose of the new law is not to effect radical changes in the main work of the courts but rather to state in more precise terms their powers and duties."
 - (2) Previously there was no separate Native Court legislation, one portion of the Courts Ordinance being devoted to these courts.
 - (3) Buganda Courts Ordinance, 1940.

on page 2 of the Handbook might well have come from Cameron's Memorandum on Native Courts (1): "There are certain cardinal principles to be observed and one of the foremost is that the development of the native judicial system should be a natural growth and not unduly hastened; it should not be misdirected by maladroit administrative interference or, on the other hand, permitted to stray into channels foreign to the best existing native ideas".

Bearing in mind the vital role which the supervision and control of the native court system played in the administrative officer's all important task of developing the native administrations in accordance with the accepted principles of indirect rule (albeit in their capacity as magistrates in Uganda), it is not surprising that this Handbook was perhaps the most valuable and most frequently consulted of any government publication in the hands of these officers. Although during the post-war period indirect rule principles were to be progressively discarded, the native court system held its importance in the field of rural administration and the Handbook retained its value until the Native Courts Ordinance was replaced by the African Courts Ordinance of 1957. This enactment extended the powers of the higher grades of African courts (as the native courts were now termed) and the district officers ceased to have appeal powers - though retaining those of supervision and revision. Moreover, the courts were to be guided by certain pieces of statute law. Nevertheless, even after the passing of the 1957 Ordinance, the native

(1) Native Administration Memoranda (Dar es Salaam, 1930, 2nd edn.), No.2 "Native Courts".

court system remained, in principle, intact. Preparations were made during the final decade of colonial rule for the eventual integration of the African courts into the general court structure, but it was not until after independence that full integration was determined upon; this was achieved by the Magistrates' Courts Act of 1964 which swept away entirely the African courts.

GOVERNMENT PUBLICATIONS RELATING TO UGANDA
1900-1962

INDEX TO REELS

GROUP 1 1900-1932

<u>Reel No.</u>	<u>Title</u>	
1	Special Commissioners Preliminary Report	1900
	With maps	
	Special Commissioners Report	1901
	Annual Reports	1902/3-1932
2	Uganda Gazette	1908-1910
3	Uganda Gazette	1911-1913
4	Uganda Gazette	1914-1915
5	Uganda Gazette	1916-1917
6	Uganda Gazette	1918-1919
7	Uganda Gazette	1920
8	Uganda Gazette	1921-1922
9	Uganda Gazette	1923-1925
10	Uganda Gazette	1926-1927
11	Uganda Gazette	1928-1929
12	Uganda Gazette	1930
13	Uganda Gazette	1931-1932
14	Blue Books for Uganda	1901/2-1903/4
15	Blue Books for Uganda	1904/5-1906/7
16	Blue Books for Uganda	1907/8-1910/11
17	Blue Books for Uganda	1911/12-1915
18	Blue Books for Uganda	1916-1920
19	Blue Books for Uganda	1921-1929
20	Blue Books for Uganda	1930-1932

GROUP 2 1933-1951

<u>Reel</u> <u>No.</u>	<u>Title</u>	<u>Date</u>
21	Native Administration	1939
	Handbook of Native Courts for	
	Guidance of Administration Officers	1941
	Annual Reports	1933-1951
22	Uganda Gazette	1933
23	Uganda Gazette	1934
24	Uganda Gazette	1935
25	Uganda Gazette	1935 contd.
26	Uganda Gazette	1936
27	Uganda Gazette	1937
28	Uganda Gazette	1938
29	Uganda Gazette	1939
30	Uganda Gazette	1940
31	Uganda Gazette	1941-1942
32	Uganda Gazette	1943
33	Uganda Gazette	1944-1945
34	Uganda Gazette	1946
35	Uganda Gazette	1947
36	Uganda Gazette	1948
37	Uganda Gazette	1949
38	Uganda Gazette	1950
39	Uganda Gazette	1951
40	Uganda Gazette	1951 contd.
41	Blue Books for Uganda	1933-1934
42	Blue Books for Uganda	1935-1945

GROUP 3 1952-October 6th 1962

<u>Reel</u> <u>No.</u>	<u>Title</u>	<u>Date</u>
43	Annual Reports	1952-1956
44	Annual Reports	1957-1961
45	Uganda Gazette	1952
46	Uganda Gazette	1953
47	Uganda Gazette	1954
48	Uganda Gazette	1955
49	Uganda Gazette	1955 contd.
50	Uganda Gazette	1956
51	Uganda Gazette	1956 contd.
52	Uganda Gazette	1957
53	Uganda Gazette	1958
54	Uganda Gazette	1958 contd.
55	Uganda Gazette	1959
56	Uganda Gazette	1959 contd.
57	Uganda Gazette	1960
58	Uganda Gazette	1960 contd.
59	Uganda Gazette	1961
60	Uganda Gazette	1961 contd.
61	Uganda Gazette	1962
62	Uganda Gazette	1962 contd.

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