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Judgment
26, 1965

IN THE PRIVY COUNCIL

No. 33 of 1964

ON APPEAL FROM THE HIGH COURT OF
UGANDA AT KAMPALA

B E T W E E N :

THE KABAKA'S GOVERNMENT
(Defendant)

Appellant

- and -

ATTORNEY GENERAL OF UGANDA
(Plaintiff)

Respondent

RECORD OF PROCEEDINGS

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ON APPEAL FROM THE HIGH COURT
OF UGANDA AT KAMPALA

B E T W E E N :

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- and -

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(Plaintiff)

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RECORD OF PROCEEDINGS

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B	Appendix G of Report of Uganda Constitutional Conference in London (Comnd 1523)	October 1961	Separately reproduced
B1	Paragraph 147 at page 25 of Report of Uganda Constitutional Conference in London (Comnd 1523)	October 1961	Separately reproduced
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Description of Document	Date
<u>In the High Court of Uganda</u> Proceedings	13th, 14th, 15th, 16th and 17th April 1964
Notice of intended Appeal	20th May 1964
Notice of Motion	4th June 1964
Affidavit of Emmanuel S. Lule	22nd June 1964

DOCUMENTS REJECTED BY THE HIGH COURT OF
UGANDA AS BEING INADMISSIBLE

Description of Document	Date
Report on proposed financial relationships between Central Government and Kabaka's Government	19th June 1962
Affidavit of James Alexander Burgess, and exhibited thereto, Record of a Meeting between representatives of Uganda Government and Kabaka's Government held on 20th June 1962	9th April 1964

Description of Document	Date
Record of Third Meeting of Fiscal Committee of Uganda Independence Conference	21st June 1962
Record of Fifth Meeting of Fiscal Committee	24th June 1962
Final Report of Fiscal Committee	24th June 1962
Record of Fifth Meeting of the Uganda Independence Conference	26th June 1962
Record of Seventh Meeting	29th June 1962
Report of the Uganda Independence Conference 1962	

IN THE PRIVY COUNCIL

No. 33 of 1964

ON APPEAL FROM THE HIGH COURT
OF UGANDA AT KAMPALA

B E T W E E N :

THE KABAKA'S GOVERNMENT
(Defendant) Appellant

- and -

ATTORNEY GENERAL OF UGANDA
(Plaintiff) Respondent

10

RECORD OF PROCEEDINGS

No. 1

Amended Plaintiff

In the High
Court

No. 1

IN THE HIGH COURT OF UGANDA AT KAMPALA

CIVIL CASE NO.462 OF 1963

Amended
Plaint

16th December
1963

ATTORNEY GENERAL OF UGANDA Plaintiff.

versus

THE KABAKA'S GOVERNMENT Defendant.

AMENDED PLAINT

20

1. The plaintiff sues on behalf of the Government of Uganda. His address for service is the Attorney General's Chambers, Ministry of Justice, Entebbe.

2. The defendant is incorporated by statute under the title of the Kabaka's Government, and is sued as the Government of the Kingdom of Buganda. The address for service of the defendant is c/o the Attorney General of Buganda, Office of the Katikkiro, Mmengo.

3. Differences have arisen between the Government of Uganda and the Kabaka's Government as to the

In the High
Court

No. 1

Amended
Plaint

16th December
1963
continued

proper interpretation of Schedule 9 to the Constitution of Uganda, which concerns financial relationships between the two Governments. The said Schedule is set out in the First Annexure hereto.

4. The plaintiff will contend that paragraph 1 of the said Schedule means that Buganda's financial requirements in addition to her independent sources of revenue (including graduated tax) are to be calculated for the purposes of the said Schedule in the same way as the block grants made to local authorities, 10 that is to say, in accordance with the following procedure:

(1) The total amount of the recurrent grants made by the Government of Uganda to the Kabaka's Government in respect of the financial year ending on the 30th June, 1962, shall be taken as the starting point.

(2) To that amount there shall be added in respect of services transferred from the Government of Uganda to the Kabaka's Government - 20

(a) where the service is transferred with effect from the beginning of a financial year of the Government of Uganda, the estimated full net cost of the service to the Government of Uganda in the preceding financial year;

(b) where the service is transferred with effect from a date in the course of a financial year of the Government of Uganda, then - 30

(i) for that financial year, the appropriate proportion of the estimated full net cost of the service to the Government of Uganda for the twelve months preceding that date (that is to say, an amount which is in the same proportion to such estimated full net cost as the part of that financial year which follows that date is to the whole year); 40

(ii) for succeeding financial years, the estimated full net cost of the service to the Government of Uganda for the twelve months preceding that date.

- (3) From the resulting total there shall be deducted the additional revenue estimated to accrue to the Kabaka's Government in respect of the financial year ending on the 30th June, 1963, as a result of the implementation of the recommendations (or any of them) set out in paragraphs 2 to 6 of Appendix G to the Report of the Uganda Constitutional Conference, 1961 (which said paragraphs are set out in the Second Annexure hereto), provided that in respect of the period ending on the 30th June 1963 only, there shall be no deduction in respect of the estimated additional revenue accruing to the Kabaka's Government for that financial year from graduated tax levied on non-Africans.

In the High
Court

No. 1

Amended
Plaint

16th December
1963
continued

5. The plaintiff will further contend that, once Buganda's financial requirements have been calculated in accordance with the aforesaid procedure, the figure thereby arrived at is not subject to annual re-calculation, except to the extent necessary to give effect to paragraph 4(2)(b) hereof. Subject to any change which may be made as a result of the operation of section 20 of the Uganda (Independence) Order in Council, 1962 (which requires the financial arrangements between Uganda and the Federal States to be reviewed by the Government of Uganda in consultation with the Governments of the Federal States not later than the 30th June, 1966), the said figure will continue to be used for the purposes of the said Schedule unless and until it is varied as the result of a review carried out in pursuance of paragraph 2 thereof.

6. In relation to paragraph 4 of the said Schedule the plaintiff will contend that -

- (a) the words "further services" mean services which may in the future be made the subject of arrangements under section 79 of the Constitution of Uganda (not being services for the administration of which the Kabaka's Government is responsible by virtue of section 14(1) of the Uganda (Independence) Order in Council, 1962);
- (b) the amount of the additional sums required for any such service is to be calculated by the procedure described in paragraph 4(2) hereof or, if some other procedure

In the High
Court

No. 1

Amended
Plaint

16th December
1963
continued

is prescribed in the arrangement to which
the service is subject, by that other
procedure.

7. The Plaintiff will rely on the agreement reached between representatives of the Government of Uganda, and the Kabaka's Government at a meeting held at St. Ermin's Hotel, London, on 20th June, 1962, and confirmed at meetings of the Uganda Independence Conference and the Fiscal Committee thereof on 21st June, 24th June, 26th June and 29th June, 1962. And the plaintiff claims a declaration that the said Schedule is properly to be implemented in accordance with the contentions set forth in paragraphs 4, 5 and 6 hereof, or in the alternative if the Court be of opinion that the said Schedule is not properly to be so implemented, that the Court may declare how the said Schedule is to be implemented.

10

Dated at Entebbe this ~~30th~~ 16th day of ~~August~~ December, 20
1963.

M. J. STARFORTH

Counsel for the plaintiff.

Filed by:-

The Attorney General of Uganda.
Entebbe.

FIRST ANNEXURE

SCHEDULE 9 TO THE CONSTITUTION OF UGANDA.

Agreement Between The Uganda And Buganda Government Delegations On The Financial Relationships Between The Government of Uganda And The Kabaka's Government.

30

1. The Delegations of the Central and Kabaka's Government have agreed that Buganda's financial requirements, in addition to her independent sources of revenue (including graduated tax), and calculated on lines similar to the figures for local authorities block grants, should be provided as follows:-

(a) fifty per cent. by assignment of certain revenues raised in Buganda (with minimum yield guaranteed) - it is intended that these should be

from petrol and diesel duty and the items mentioned in paragraph 3 below; and

In the High Court

(b) fifty per cent. by an annual statutory contribution from general revenue (not to be reduced without consultation with the Kabaka's Government).

No. 1

Amended
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1963

continued

10 2. At intervals of from three to five years there will be a review of these arrangements, not only to consider the rate of annual statutory contribution, but also to consider - in the light of actual yields- whether there should be any change in the revenues selected for assignment.

20 3. Revenue from stamp duty on mailo transfers and from licences on powered two-wheeled vehicles will be included in the assignments above. As to the other recommendations in paragraph 67 of the Fiscal Commission's report, it is now agreed that the Kabaka's Government should be able to levy entertainment tax on entertainments for which it is the licensing authority. The Buganda Delegation, however, reject the proposal that Buganda should raise revenue from the licensing of unpowered bicycles or unmanufactured "black" tobacco.

4. Additional sums which may be required in respect of further services for which the Kabaka's Government assumes financial responsibility will be made available by increasing the amount of the statutory contribution.

30 5. As, in accordance with its own wishes, the Kabaka's Government is excluded from the local authorities grant structure, it will not be eligible for deficiency or "catching up" grants, nor for grants to assist with the cost of salary increments.

SECOND ANNEXURE

Paragraphs 2 to 6 of Appendix G to the Report of the Uganda Constitutional Conference, 1961.

40 2. The following recommendations are made for the revision of the tax structure, on the assumption that the extra revenue accruing therefrom to Local Authorities would be taken into account in computing Government grants:-

In the High
Court

No. 1
Amended
Plaint
16th December
1963
continued

- (a) Local Authorities should levy a graduated personal tax on adult males of all races resident within the areas coming under their administration, with permission to levy the tax on unmarried females.
- (i) The rates scales and assessment regulations of personal tax should be subject to Central Government approval, the objective being a uniform tax scale subject to a maximum to be approved by the Central Government. 10
- (ii) Separate local education taxes should be amalgamated into the personal tax.
- (b) Rating should be extended to towns and trading centres where it does not already apply and to commercial and industrial properties in rural areas. Rating should normally be related to services provided and should be controlled by the Central Government.
- (c) The Central Government income tax should apply to all races (with exemption for agricultural primary co-operative societies). 20
- (d) African Poll Tax and Non-African Poll Tax and Education Tax (levied by the Protectorate Government) should be abolished.

Transfers of Non-Tax Revenue to Local Authorities.

3. It is recommended that the Uganda Relationships Commission's proposal (Chapter 16, paragraphs 372 - 373) to transfer Crown Land rents to Urban Authorities should be accepted. The Central Government should, however, retain responsibility for rent assessment of unalienated Crown Land. 30

4. The handing over of Crown Land on a 199-year lease to Urban Authorities will make it necessary to transfer to those Authorities responsibility for the installation of initial services and with it the collection of premia. There will be a continued need for payment by grant to Urban Authorities in respect of premia already collected by the Central Government for services which the Authorities will have to install. 40

5. The Uganda Relationships Commission (Chapter 14, paragraph 312) recommended that all mineral royalties

In the High
Court
—
No. 2
Amended
Defence
27th December
1963
continued

2. The Defendant admits the averments contained in paragraph 2 of the Plaint, subject to the qualification that the right and liability of the Kabaka's Government to sue and be sued, is now recognised by Article 18 of the Constitution of Buganda (Schedule 1 to the Constitution of Uganda). The Defendant, however, admits that it can properly be sued under the name and style as given in the caption of the Plaint.

3. Subject to paragraph 4(2) hereof, the Defendant admits the averments contained in paragraph 3 of the Plaint. 10

4. (1) The Defendant denies that the contentions of the Plaintiff contained in paragraph 4 of the Amended Plaint are in accord with the true meaning of Schedule 9 of the Constitution of Uganda. The Defendant specially denies that under the provisions of paragraph 1 of the said Schedule, Buganda's financial requirements fall to be calculated in the same way as the block grants made to local authorities. 20
The Defendant states that the true legal position is as pleaded in sub-paragraphs 9(a), (b), (c) and (i) hereof.

4(2). The deduction during any period of any part of Buganda's independent sources of revenue (including Graduated Tax) is contrary to the express provisions of Schedule 9 and, in any event, the question whether there should be any deduction in respect of Graduated Tax levied on non-Africans had been expressly agreed on by the two Governments so that there is no dispute or difference regarding this question to be settled in this action. 30

5. The Defendant denies all and singular the averments contained in paragraph 5 of the Plaint, except the averment that the financial arrangements between the Government of Uganda and the federal states may be reviewed under section 20 of the Uganda (Independence) Order in Council, 1962. The Defendant states that the true legal position is as pleaded in subparagraph 9(d) hereof. 40

6. The Defendant denies the averments contained in paragraph 6 of the Plaint and states that the true legal position is as pleaded in subparagraph 9(h) hereof.

7. By way of COUNTERCLAIM, the Defendant pleads that the facts stated below are relevant to the legal construction of the said Schedule 9:

In the High Court

No. 2

Amended
Defence

27th December
1963
continued

- 10 (a) After the Kabaka's Government had boycotted the Uganda Relationships Commission 1961 and had declared its intention to secede, a conference was held at Entebbe at which representatives of the Government of Uganda and of the Kabaka's Government discussed the conditions under which Buganda would enter into federal relationship with the rest of Uganda.
- 20 (b) At the said conference the Kabaka's Government insisted, as a condition of their entering into the proposed federal relationship with the rest of Uganda, that Buganda's fiscal relations with the Government of Uganda should be such that Buganda would receive financial contributions from the Government of Uganda as a matter of legal right.
- (c) The Uganda Fiscal Commission (which was appointed in January 1962 to report on the fiscal relations between the Government of Uganda and the Regional Governments), inter alia, found -
- 30 (i) That the grant structure in Schedule G to the Report of the Constitutional Conference, 1961 was unnecessarily harsh.
- (ii) That the discretionary nature of the grants made under the said Schedule was unsatisfactory.
- (iii) That the claim of the Kabaka's Government for Government of Uganda revenue collected in Buganda was unjustifiable.
- 40 (iv) That Buganda was in a special position and that certain special fiscal arrangements should be made in regard to Buganda, namely, there should be an assignment to Buganda of a proportion of the revenue arising out of the sale of petrol and diesel in Buganda and special grants to Buganda in respect of medical and educational services.

In the High
Court

No. 2

Amended
Defence

27th December
1963

continued

- (v) The recommendation of the Uganda Fiscal Commission in regard to the expenditure of the Kabaka's Government in respect of hospital services, senior secondary schools, technical education and teacher-training was that it should be paid for by the Government of Uganda upon the basis of the expenditure that the Government of Uganda would in a particular year directly spend upon these services in Uganda. 10
- (d) The said Commission's recommendations in respect of Buganda are far more advantageous to Buganda than the provisions of the 9th Schedule as interpreted by the Plaintiff.
- (e) The Kabaka's Government rejected the said Commission's recommendations and made the special agreement with the Government of Uganda contained in the 9th Schedule.
- (f) Mainly as a result of the system of grants operating at the time, Buganda's financial reserves which stood at about £806,000 in July 1955 had fallen to £386,000 by July 1962 and before this date it was clear that unless a radical change was made in the system, either bankruptcy or a serious reduction in services (socially impossible in an underdeveloped country) would inevitably result. 20
- (g) If the interpretation of the said Schedule 9 contended for by the Plaintiff were adopted, the result would be - 30
- (i) that Buganda's financial position would be worse than it was at the time the said Schedule 9 was enacted; and
- (ii) that Buganda's position would be less favourable than that of other local authorities.
- (h) The financial obligations of the Defendant Government have been and are more onerous than those of the other local authorities particularly in regard to education, health, administration of justice and maintenance of law and order. 40
8. To meet the situation outlined in paragraph 7 above, the said Schedule 9 was enacted at the instance

of the Defendant Government. The purpose of the said Schedule 9 is to place Buganda in a financially better position than she was under the arrangements in the said Schedule G to the Report on the Constitutional Conference 1961 and to enable her to perform the obligations placed upon her by the Constitution.

In the High
Court

No. 2

Amended
Defence

27th December
1963
continued

9. Further answering, the Defendant pleads:

- 10 (a) Under the provisions of paragraph 1 of Schedule 9 to the Constitution of Uganda, Buganda's financial requirements fall to be calculated wherever possible on lines similar to the calculation of the financial requirements of local authorities that has to be made for the purpose of determining the block grants payable to them.
- 20 (b) The calculation of the financial requirements of local authorities referred to in subparagraph 9(a) above, fall to be made not upon the figures of actual cost of services but upon figures and formulae in the nature of figures contemplated in Schedule G to the Report of the Uganda Constitutional Conference, 1961.
- 30 (c) The procedure for the determination of block grants to local authorities (as distinct from the calculation of their financial requirements) has no relevance to the calculation of Buganda's financial requirements under paragraph 1 of the said Schedule 9.
- (d) The calculation of Buganda's financial requirements must, under paragraph 1 of the said Schedule, be made for each financial year in advance and the financial provision to be made by the Government of Uganda based upon such calculation must be determined for each financial year in advance.
- 40 (e) The annual financial provision to be made by the Government of Uganda under paragraph 1 of the said Schedule once ascertained in accordance with subparagraphs (a), (b) and (d) of this paragraph, has to be made available to the Kabaka's Government in the form indicated in subparagraphs (a) and (b) of paragraph 1 of the said Schedule 9, subject however to any review,

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Court

No. 2

Amended
Defence

27th December
1963
continued

- under the provisions of paragraph 2 of the said Schedule, of the arrangements provided in the subparagraphs (a) and (b) of the said paragraph 1.
- (f) The provisions for review in paragraph 2 of the said Schedule 9 do not affect the statutory obligation that Buganda's financial requirements shall be calculated for each financial year under the principal part of paragraph 1 of the said Schedule.
- (g) Buganda's financial requirements, in respect of which financial provision has to be made under paragraph 1 of the said Schedule, include all reasonable financial requirements and are not confined to expenditure on "transferred services" and on other services referred to in paragraph 4 of the Plaint. 10
- (h) Paragraph 4 of the said Schedule 9 obliges the Government of Uganda to make financial provision for expenditure incurred by the Kabaka's Government in respect of any further services, that is to say, any services for which the Kabaka's Government assumes financial responsibility in the course of a financial year after the calculation of the financial provision to be made by the Government of Uganda for that particular financial year has been concluded. 20
- (i) The said Schedule 9 does not authorise any deduction to be made on account of any revenue accruing to Buganda from her independent sources of revenue (including Graduated Tax). 30
- (j) In regard to paragraph 5 of the said Schedule 9, the Defendant pleads that non-eligibility to grants as such is a consequence of Buganda getting out of the grant structure for local authorities and entering into the arrangements contained in the said Schedule 9; and nothing in the said paragraph 5 authorises any deduction either in the calculation of Buganda's financial requirements or from the financial provision to be made by the Government of Uganda under paragraph 1 of the said Schedule 9. 40

10. Answering paragraph 7 of the Amended Plaint, the Defendant denies that any real or binding agreement was reached or confirmed at the meetings referred to

in the said paragraph or at any other time and states that the discussions at the meetings referred to are, in any event, irrelevant and inadmissible in law for the purpose of interpreting Schedule 9.

In the High Court

No. 2

WHEREFORE the Defendant prays -

Amended Defence

27th December 1963
continued

- (a) that the claim of the Plaintiff for the declaration prayed for in the Plaint be dismissed with costs;
- (b) that the Court be pleased to make order declaring that the true meaning of Schedule 9 to the Constitution of Uganda is as set out in paragraph 9 of this Defence and that the Government of Uganda is legally bound to make payments to the Kabaka's Government accordingly;
- (c) that in the event of the Court not being disposed to grant the declaration as prayed for in paragraph (b) of this prayer, the Court be pleased to declare -
 - (i) the true meaning of the said Schedule 9; and
 - (ii) that the Government of Uganda is legally bound to make payments accordingly to the Defendant Government.

Dated at Mmengo this ~~2nd~~ 27th day of ~~October~~, December, 1963.

ATTORNEY GENERAL OF BUGANDA
COUNSEL FOR THE DEFENDANT

No. 3

No. 3

Amended Reply and Defence to Counterclaim

Amended Reply and Defence to Counterclaim

IN THE HIGH COURT OF UGANDA AT KAMPALA

29th January 1964

CIVIL CASE NO. 462 OF 1963

ATTORNEY GENERAL OF UGANDA ... Plaintiff.
versus
THE KABAKA'S GOVERNMENT Defendant

In the High Court

AMENDED REPLY AND DEFENCE TO COUNTERCLAIM

No. 3

Amended Reply and Defence to Counterclaim
29th January 1964
continued

1. The Plaintiff joins issue with the Defendant on the Defence.

2. As to paragraph 4(2) of the Amended Defence the Plaintiff admits that the Minister of Finance's letter dated 28th December, 1962, addressed to the Omuwanika, Kabaka's Government was written, and will refer to the same for its true terms and effect. The Plaintiff says that the decision referred to in the said letter was one which related to the period ending 30th June, 1963, and further contends that as to the period from 30th June, 1963, it is a question of the true interpretation of Schedule 9 as to the matters to which regard should be had in determining the amount of the Government's contribution to the Kabaka's Government; and further that it would be contrary to the provisions of Schedule 9 not to have regard to the graduated tax levied on non-Africans in determining the amount of the said contribution.

10

20

3. As to the allegations contained in paragraphs 7 and 8 of the Counterclaim, the Plaintiff does not admit that the matters referred to in such allegations or any of them - which save as hereinafter set forth are denied - are relevant to or admissible upon the construction or interpretation of the said Schedule 9.

4. Further as to paragraph 7 of the Counterclaim, subject to paragraph 2 hereof the allegations in sub-paragraphs (a) and (b) thereof are admitted. As to the findings of the Uganda Fiscal Commission referred to in sub-paragraph (c) thereof, the Plaintiff subject to paragraph 2 hereof will say that such findings are neither fully nor accurately set forth in the Counterclaim and will, if (which is not admitted) such findings be relevant or admissible in this action, refer to and rely upon the true contents of such Commission's report.

30

5. Further, as to paragraph 8 of the Counterclaim, subject to paragraph 2 hereof, the Plaintiff asserts that the said Schedule 9 was agreed between the Government of Uganda and the Kabaka's Government for the purpose of regulating their financial relationships further to the provisions made in the body of the Uganda (Independence) Order in Council, 1962 (S.I. No. 2175) in that regard.

40

5.6. The Plaintiff denies each and every allegation contained in paragraph 9 of the Counterclaim, but admits that the Government of Uganda is legally obliged to make payments to the Kabaka's Government as set out in s.107 of the Uganda Constitution.

In the High Court

No. 3

Amended Reply and Defence to Counterclaim

29th January 1964

continued

Dated at Entebbe this ~~16th~~29th day of ~~October~~ January, ~~1963~~ 1964 .

?

Counsel for the Plaintiff.

Filed by:-

10 The Attorney General of Uganda.
Entebbe.

No. 4

Ruling

No. 4

Ruling

15th April 1964

IN THE HIGH COURT OF UGANDA AT KAMPALA

CIVIL CASE NO.462 OF 1963

ATTORNEY GENERAL OF UGANDA PLAINTIFF

versus

THE KABAKA'S GOVERNMENT DEFENDANT

(Proceedings resumed at 9.30 a.m.)

20 MR.LAWSON: Could I perhaps invite your Lordships to indicate the ruling on the submissions yesterday because quite obviously it affects the way in which I conclude my submissions.

C.J. We are giving our ruling this morning.

R U L I N G

30 Having given careful consideration to the submissions made to us, and the authorities cited and relied upon by both counsel on the question of admissibility of extraneous evidence in aid of the construction of Schedule 9 to the Constitution of Uganda with which we are concerned in this case, we are of the opinion that the only extraneous evidence

In the High Court

No. 4

Ruling

15th April 1964

continued

admissible in these proceedings should be such evidence as relates to the historical and factual position of the financial relationship between the Central Government of Uganda and the Kabaka's Government for the period leading up to and including 10th October, 1962, and as to the explanation of certain terms of art not defined in the Constitution of Uganda and Schedule 9 thereto.

On that principle we have decided to admit in evidence the following matters:

10

- (1) Letter from the Secretary to the Treasury addressed to the Omuwanika, F.C.397/6 dated 13th March, 1962, relating to block grants;
- (2) Appendix 'G' to the Report of the Uganda Constitutional Conference, 1961 (Cmd.1523), together with such parts of the said Report as relate to Appendix 'G';
- (3) Such oral evidence as is necessary to introduce and explain the manner in which block grants to local authorities were and are usually calculated, and as to the financial relationship existing between the Central Government of Uganda and the Kabaka's Government at all material times.

Our reasons for this Ruling will be given in our judgment later.

No. 5
Judgment
4th May 1964

No. 5

Judgment

IN THE HIGH COURT OF UGANDA AT KAMPALA

CIVIL CASE NO. 462 of 1963

ATTORNEY-GENERAL OF UGANDA..... PLAINTIFF

30

versus

THE KABAKA'S GOVERNMENT DEFENDANT

Before - The Honourable the Chief Justice
Mr. Justice E. Udo Udoma

The Honourable Mr. Justice Bennett

The Honourable Mr. Justice Slade

J U D G M E N T

[Read by Slade, J.]

In the High
Court

No. 5

Judgment
(continued)

4th May 1964

In this suit, which has been heard by three judges of the High Court in accordance with the provisions of the Constitutional Cases (Procedure) Act, 1962, the plaintiff, on behalf of the Uganda Government, sues the defendant, the Government of the Kingdom of Buganda, claiming a declaration that Schedule 9 of the Constitution of Uganda is properly to be implemented in accordance with certain contentions set forth in extenso in his amended plaint, or alternatively asking that this Court do declare the manner in which that Schedule is to be implemented.

The defendant, by its amended defence, denies that the plaintiff's contentions regarding the manner of implementation of Schedule 9 to the Constitution of Uganda are in accordance with its true meaning, and in turn seeks a declaration that the Schedule falls to be interpreted in accordance with certain contentions set out in extenso in the defence, or alternatively that this court declare the true meaning of the Schedule. A further declaration is sought by the defendant that the Government of Uganda is legally bound to make payments to the defendant in accordance with the declaration made.

It will, we think, be convenient if in this judgment, we refer to the Uganda (Constitution) Order in Council 1962, and the Constitution of Uganda contained in the Second Schedule to that Order as "the March Order" and "The March Constitution" respectively, to the Uganda (Independence) Order in Council, 1962, and the Constitution of Uganda contained in the Schedule to that Order as "the Independence Order" and "the Independence Constitution" respectively, and to Schedule 9 to the Independence Constitution as "the Schedule".

It is appropriate at this stage briefly to examine the constitutional position of Buganda under the provisions of the Independence Constitution. By section 2 of that Constitution Uganda is declared to consist of Federal States, Districts and the territory of Mbale, and Buganda is one of the Federal States named in that section with a separate constitution contained in Schedule 1 to the Constitution. Buganda, as a Federal State, possesses the legislative and executive powers and functions contained in Chapter VII of the Independence Constitution and the latter powers are either those vested by virtue of section 77

In the High
Court

—
No. 5

Judgment
(continued)

4th May 1964

or, to use a convenient term, delegated under the powers contained in sections 78 and 79 of the Independence Constitution. Executive functions may not be entrusted to any of the defendant's officers or authorities, nor may powers be conferred or duties imposed on them under section 78 of the Independence Constitution without the defendant's consent, and somewhat similarly, before the administration of any service within the executive authority of the Uganda Government may be undertaken by the defendant an arrangement for such administration must be entered into between the two Governments concerned. By the provisions of section 14 of the Independence Order the defendant is declared to be responsible for the administration in Buganda of certain services for the administration of which provision had been made in the Buganda Agreement, 1961 (with which we are not concerned in these proceedings), as if an arrangement under section 79 of the Constitution had been made between the two Governments. 10

It is therefore clear that the defendant is responsible for the exercise of certain powers and functions and for the discharge of certain duties, conferred or imposed upon it by virtue of the Independence Constitution, and that those powers, functions and duties may be enlarged in the future with the defendant's approval. In addition, under existing Uganda Government legislation there may be other powers, functions and duties conferred or imposed upon the defendant, an example being the administration of courts recognised or constituted under the Buganda Courts Ordinance (Cap.77, 1951 Revised Edition of the Laws). 30

Obviously, unless the defendant is able to make financial provision from its own revenues for the exercise and discharge of its constitutional and statutory responsibilities, it must receive assistance from sources beyond its own revenues, and section 107 of the Independence Constitution and its dependent Schedule provide for such assistance, the amount and nature of such assistance depending entirely on the proper interpretation of the Schedule. 40

Before turning to the questions raised in this suit, there are a number of preliminary matters which are to be considered; first, the principles which we should follow in attempting to interpret the Schedule,

and secondly, and arising from that consideration, the historical background and surrounding circumstances from which the Schedule itself emerges.

In the High
Court

No. 5

Judgment
(continued)
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10 It is trite law that the Independence Order, the Independence Constitution and the Schedules to that Constitution, including the Schedule, are to be interpreted in accordance with the same rules of construction as those which govern the interpretation of statutes. If the words of the Schedule were clear and unambiguous, it would be unnecessary to look beyond those words to discover their meaning or intention. Regrettably, however, that is not the case, and our task, as we see it, is to endeavour to ascertain the intention of the legislative authority (in this case Her Majesty the Queen in Council) with relation to the Schedule, as part of the Independence Order and the Independence Constitution.

The provisions of the Schedule are in the following terms:-

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SCHEDULE 9 TO THE CONSTITUTION OF UGANDA

Agreement between the Uganda and Buganda Government Delegations on the financial relationships between the Government of Uganda and the Kabaka's Government

1. The Delegations of the Central and Kabaka's Governments have agreed that Buganda's financial requirements, in addition to her independent sources of revenue (including graduated tax), and calculated on lines similar to the figures for local authorities block grants, should be provided as follows.

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(a) fifty per cent. by assignment of certain revenues raised in Buganda (with minimum yield guaranteed) - it is intended that these should be from petrol and diesel duty and the items mentioned in paragraph 3 below; and

(b) fifty per cent. by an annual statutory contribution from general revenue (not to be reduced without consultation with the Kabaka's Government.).

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2. At intervals of from three to five years there will be a review of these arrangements, not only to consider the rate of annual statutory contribution, but also to consider - in the light of actual yields -

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whether there should be any change in the revenues selected for assignment.

3. Revenue from stamp duty on mailo transfers and from licences on powered two-wheeled vehicles will be included in the assignments above. As to the other recommendations in paragraph 67 of the Fiscal Commission's Report, it is now agreed that the Kabaka's Government should be able to levy entertainment tax on entertainments for which it is the licensing authority. The Buganda Delegation, however, reject the proposal that Buganda should raise revenue from the licensing of unpowered bicycles or unmanufactured "black" tobacco. 10

4. Additional sums which may be required in respect of further services for which the Kabaka's Government assumes financial responsibility will be made available by increasing the amount of the statutory contribution.

5. As, in accordance with its own wishes, the Kabaka's Government is excluded from the local authorities grant structure, it will not be eligible for deficiency or "catching up" grants, nor for grants to assist with the cost of salary increments." 20

It is to be observed that the words of paragraph 1, far from being plain and unambiguous, are capable of at least three widely differing interpretations, and in addition there are certain ambiguities of expression in paragraphs 2 and 4 of the Schedule.

The language used in this singularly ill-drawn Schedule, particularly in paragraph 1, does not, to say the least, attain to that degree of precision desirable of being attained by the Parliamentary draftsman, and its style, the mode of punctuation adopted, and the lavish use of parentheses all tend to create the impression that whatever the original purpose for which the so called "Agreement" was prepared may have been, it was not for the purpose of incorporation with the other parts of an Order in Council which had been drafted and made in terms with which the Courts in suits of this nature are more familiar. We think it not inappropriate to adopt the remarks of Lord Herschell who, when commenting on a similarly obscure piece of legislation in the case of Cooke, Sons & Co. v New River Co. (1889) 14 App. Case 698 said "if the object had been to render the statute" 30 40

as difficult of construction as possible, success could hardly have been more complete." That comment is singularly descriptive of the Schedule with which we are concerned.

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10 In consequence of the ambiguities and obscuri-
ties to which we have referred we are unable to have
regard only to the words of the Schedule in order
to ascertain its meaning. As an aid to interpreta-
tion, learned counsel for the plaintiff submitted
that he was entitled to rely on and tender in
evidence certain letters and records of meetings
which were held, principally in London in June, 1962
at the time of the Constitutional Conference which
preceded the grant of independence to Uganda, such
meetings being variously of delegations attending
the Conference, of the Fiscal Committee of that
Conference, and of the full Conference itself. The
full list of the documents on which he proposed to
rely forms the third Annexure to the amended plaint,
20 and the purpose for which it was proposed to introduce
such documents was, as we understand the position, to
set out the history of the financial relationship
between the two Governments, the circumstances
surrounding making of the financial provisions
contained in the Independence Constitution, and, so
far as the Schedule is concerned, the intention of
the two Governments with regard to the financial
relationship to subsist between them after independence.
Learned counsel for the defendant submitted that this
30 Court was not concerned to interpret the intentions
of the two parties to an agreement, if indeed the
Schedule could properly be so termed, but its task
was to interpret the intentions of the legislator
in making the Independence Order which in turn
incorporated the Schedule, and he opposed the
admission in evidence of the majority of the docu-
ments tendered for reasons which he argued with his
customary skill and tenacity.

40 A number of authorities were cited during the
course of submissions and after giving consideration
to the matter we were unanimously of the opinion that
the only extraneous evidence admissible in these
proceedings was such as relates to the historical
and factual position of the financial relationship
existing between the two Governments for the period
leading up to and including the date on which the
Independence Order came into operation, namely
immediately before 9th October, 1962 (a date stated,
per incuriam, in our ruling on admissibility,

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delivered on 15th April, as 10th October, 1962), and as to the meaning of certain terms of art which had not been defined in the Independence Constitution, including the Schedule. Following that principle we announced that we were prepared to admit in evidence one letter, written prior to the Independence Constitutional Conference of June 1962, and an appendix to a report of the constitutional Conference which preceded the March Constitution, together with such other evidence as was necessary to introduce and explain the manner in which block grants to local authorities were and are calculated and the financial relationship existing between the two Governments at all material times. The remaining documents were rejected, and at the request of counsel for the plaintiff were so marked. 10

We announced that we intended to express the reasons which led us to our decision at the time of delivering judgment and we now proceed to do so.

In Katikkiro of Buganda v. Attorney-General (1959) 20 E.A.382, the Court of Appeal for Eastern Africa considered the interpretation to be placed upon a Schedule to the Buganda Agreement, 1955, which Schedule had been given the force of Law and accordingly was justifiable as part of the municipal Law of Uganda. The appellant relied in part, on a White Paper which included the proceedings of a Constitutional Conference which had earlier taken place at Namirembe. O'Connor P. in dealing with the question of the White Paper in the course of a lengthy judgment, in which the remaining 30 members of the Court concurred, had this to say (p.397)-

"..... What we are here interpreting is legislation. Under the ordinary rules for the construction of statutes the reports of commissioners are not admissible for the purposes of directly ascertaining the intention of the Legislature, though they may perhaps be looked at as part of the surrounding circumstances for the purpose of seeing what was the evil or defect which the Act under construction was designed to remedy: see 40 the speech of LORD HALSBURY, L.C., in Eastman Photographic Co. V. Controller-General of Patents, 22 (1898) A.C.571 at pp.573-576; as explained by Lord WRIGHT in Assam Railways and Trading Co. Ltd. v. Inland Revenue Commissioners, 23 (1935) A.C.445 at p.458 (P.C.) I assume that this rule would apply also to the report and recommendations of a conference such as the Namirembe Conference.

The statement of the objects and reasons for a bill is not admissible to aid in its construction; neither may reference be made to the proceedings of the Legislature which resulted in its passing. By analogy it would seem that H.M. Government's statement of intended policy presented to Parliament in the form of a White Paper would be equally in admissible as an aid to construction of the resulting legislation.

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LORD WRIGHT said in Assam Railways and Trading Co. Ltd. v. Inland Revenue Commissioners (23) :

'It is clear that the language of a Minister of the Crown in proposing in Parliament a measure which eventually becomes law is inadmissible and the report of commissioners is even more removed from the value as evidence of intention, because it does not follow that their recommendations were accepted.'

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By analogy, although the recommendations of the Namirembe Conference and of the Governor as set out in the Appendices to the White Paper were accepted by H.M. Government, or prior to, November, 1954, when the White Paper was presented to Parliament, there is no evidence to show whether the Governor's proposal that there should be no major changes in his recommended constitutional arrangements for six years was accepted by Parliament and, if so, whether the proposal remained unchanged during the eleven months which elapsed before the 1955 Agreement was made and the Second Schedule given the force of law. Since, during that time, there was the change mentioned in the Sixth Schedule, it is clear that the recommendations contained in the White Paper were not immutable. I incline to the view that the White Paper is inadmissible for the purpose of construing the Second Schedule to the 1955 Agreement."

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The matter was considered briefly by the Privy Council (see /1960/E.A.784) on an appeal from the Court of Appeal for Eastern Africa and agreement was expressed with the decision of that Court on the question of admissibility of evidence. It is true that in delivering the Privy Council's judgment Lord Morton of Henryton, after expressing agreement with the decision of the Court of Appeal on the question of admissibility, went on to say: "Their Lordships

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find no ambiguity in the Second Schedule which would justify the admission of extraneous evidence", and for the plaintiff it was argued that there being ambiguity in the Schedule with which we are concerned, such evidence as he tendered was admissible, not only for the purpose of ascertaining the historical background to the legislative provision made, but in order better to ascertain the intention underlying the provision. In support of his submissions Mr. Lawson, for the plaintiff, cited three Privy Council decisions 10 which had apparently not been cited to or considered by the Court of Appeal or the Privy Council in the Katikiro cases (supra) and invited us to follow the principles laid down in these cases. The cases were In re Regulation and Control of Aeronautics in Canada (1932) A.C.54, Ladore V. Bennett (1939) A.C.468, and Pillai v. Mudanayake (1953) A.C.514; in the first the Board was concerned with the interpretation of statutory provision relating to air navigation and had before it an international convention on the subject of aerial navigation 20 which had been ratified and created certain obligations; in the second the Board was deciding the question whether certain Acts of a provincial legislature in Canada in relation to certain municipal affairs were intra vires under the British North America Act, 1867, and had before it the report of a Royal Commission appointed by Order in Council for the specific purpose of inquiring into those affairs, while the third concerned the question whether certain measures of the Ceylon Parliament were ultra vires the Constitution of 30 Ceylon and consideration was given to the report of a Royal Commission which preceded the enactment of those measures.

With respect to Mr. Lawson's arguments, we do not think that any of these cases provided authority for the proposition which he advanced, namely that we should receive evidence as to what any or all the delegations to the 1962 Constitutional Conference intended, prior to the enactment (to use a convenient expression) of the Schedule, the financial relationship between the two Governments should be after 40 Uganda became independent.

We were prepared to admit, and have admitted, certain evidence of historical background to that financial relationship, we have examined such portions of existing legislation as are relevant to the consideration of such relationship and the manner in which the financial relationship between the Uganda Government and the defendant differs from that

subsisting at all material times between the Uganda Government and the other Federal States; we have admitted evidence regarding the meaning of certain technical expressions relating to financial assistance by the Uganda Government to local authorities which are not defined in the Independence Constitution, and of the meaning of which we were not aware although apparently they are commonly used and understood in the financial branches of the Governments and authorities concerned.

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It is well settled that the opinion of the draftsman with regard to the underlying intention of the legislation he has drafted is irrelevant, and that being so, the opinions of those who have instructed the draftsman are, in our view, equally irrelevant, whether those opinions are expressed in records of meetings or otherwise. Similarly, letters and other communications which may pass between persons affected by enacted legislation and which may relate to the de facto effect of that legislation, or which may declare the understanding of those persons of the intention underlying that legislation are equally irrelevant, in our opinion, and have therefore been rejected in common with the records and reports tendered in evidence.

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It was not in dispute that up to and including the year 1961 the Protectorate Government controlled the expenditure of all Governments, administrations and other authorities in Uganda, and that, with certain exceptions with which we are not immediately concerned, all revenues were collected by the Protectorate Government. Financial provision in aid of the activities of the Governments, administrations and other authorities to which we have referred was made by the Protectorate Government by means of recurrent grants made for specific purposes which, generally speaking, were to be applied only for those purposes. Broadly, it may be said that the Protectorate Government had therefore complete control over the revenues and expenditure of all subordinate Governments and administrations. The Buganda Government, no less than the other governments, was subject to that control.

In September and October 1961, a constitutional conference was held in London which preceded the conferment of internal self-government on Uganda early the following year in accordance with the March Constitution. At that time the financial year

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of the Uganda Government commenced on 1st July in one year and ended on 30th June in the following year, and it is a matter of common knowledge that in those circumstances the amount of financial assistance to be provided by the Uganda Government for the year ending 30th June, 1962, would necessarily have been determined by the time the Conference to which we have referred took place. The future fiscal policy of Uganda was not determined by that Conference and pending its future determination certain proposals advanced by the 10 Governor of Uganda were adopted as the basis of financial arrangements on which Uganda could proceed to the stage of internal self-government without prejudice to such future financial arrangements as might be considered desirable. These proposals were embodied in the Report of the Conference as Appendix G. (EX.B) (hereinafter referred to as "the Appendix") by the terms of paragraph 147 of the Report (Ex.B1).

The March Constitution contains no reference to the financial relations between the Uganda Government 20 and the defendant relevant to the issues in these proceedings. It appears from the written statement prepared by Mr. J. G. Huddle, a former senior Treasury official, which was admitted in evidence by consent (Ex.C.) that, with effect from the commencement of the financial year beginning on 1st July, 1962, the former system of specific recurrent grants to which earlier reference has been made was replaced by the block grant system as recommended in the Appendix and that 30 new system applied to all authorities, including the defendant. We learn that a block grant is a grant made as one payment to assist the recipient in carrying out a variety of functions which it is required to perform and is not subject to adjustment in light of the actual expenditure of the recipient. The Appendix makes proposals for deficiency grants and expansion grants for which authorities might become eligible in certain circumstances.

The system of block grants having been adopted, and it is important that we emphasize that it was 40 adopted in relation to the financial aid to be afforded to the defendant by the Uganda Government during the financial year commencing on 1st July, 1962, the method of calculating the block grants next falls to be considered.

After considering the Appendix the Treasury letter (EX.A), and Mr. Huddle's statement (EX.C), we find that the block grant is to be calculated by adding to the

amount of the recurrent grants paid for the financial year 1961/62 the total net cost, for the previous year, of transferred services, and deducting from the resulting total the additional revenue accruing to the recipient authority by virtue of the levy of graduated tax on persons not previously liable to that tax and of the receipt of other revenue previously accruing to the Uganda Government. Control of estimates by the Uganda Government was still envisaged.

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In March, 1962, after the March Constitution came into operation, the Uganda Government Ministry of Finance by letter (Ex. A) addressed to the Omuwanika, the defendant's Minister of Finance, provided a detailed statement of the Block grant which it estimated would be payable in the ensuing financial year, and drew the Omuwanika's attention to the relevant parts of the Appendix and to certain matters of detail which affected the calculation of the amount due.

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From the examination of these matters we conclude, and it is not, as we see it, in dispute, that the block grant system was applied in its entirety to the defendant from the time of its introduction. Having considered the manner in which, first, the Protectorate Government provided financial assistance to the defendant prior to internal self-government under the March Constitution, how control over the defendant's revenues and expenditure was maintained, and the method by which, after the March Constitution came into operation, financial assistance was to be provided until further arrangements were made, and having observed that at that period of time the defendant was, in effect, in no different position from the point of view of financial dependence, from the other Kingdoms and districts of Uganda, we are able to turn to the consideration of the position arising under the Independence Constitution, including the Schedule.

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Section 107 of the Independence Constitution, which by virtue of section 3 of the Independence Order was expressed to come into force on 1st July, 1963, the date of the commencement of the financial year next following the date on which the Independence Order came into operation, is in the following terms -

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" 107. (1) The Government of Uganda shall make payments to the Kabaka's Government in accordance with the provisions of the Agreement set out in Schedule 9 to this Constitution.

(2) The amounts required for making payments under this section shall be a charge on the Consolidated Fund.",

and clearly imposed an obligation upon the Uganda Government to make certain payments to the defendant. Separate provision for the remaining Federal States is made by section 108 of the Independence Constitution which is in the following terms - 10

" 108. (1) Subject to such terms and conditions as may be prescribed by Parliament the Government of Uganda shall pay to the Government of each Federal State (other than the Kabaka's Government) an annual contribution towards the cost of services administered by the Government of that Federal State in pursuance of arrangements entered into under section 79 of the Constitution of such amount as the Government of Uganda, after consultation with that Government may determine. 20

(2) The amounts required for the making of contributions under this section shall be a charge on the Consolidated Fund."

So far as we are aware no provision similar to section 107 or section 108 is contained in the Independence Constitution with regard to the other administrations and authorities in Uganda and we assume that it was intended that payments and financial contributions to those administrations and authorities should continue to be made under such legislation as the Local Administrations Ordinance, 1962, which had replaced the earlier African Local Governments Ordinance (Cap.74, Revised Edition of the Laws) and District Administration (District Councils) Ordinance, 1955. We observe that the terms and conditions subject to which payment of the annual contribution to Federal States other than Buganda are to be made under section 108 of the Independence Constitution have been prescribed by Parliament in the Administration (Western Kingdoms and Busoga) Act, 1963. 30 40

The financial relationship between the Uganda Government on the one hand and each of the Federal States on the other, is thus clearly expressed to differ from that intended to subsist between the Uganda

Government and the other administrations and authorities in Uganda from the date on which the Independence Constitution came into operation similarly it is clear that the relationship between the Uganda Government and the defendant differs from that expressed to exist between the former and the Governments of the other Federal States in Uganda. That latter distinction is to some extent emphasized by the fact that while by virtue of the terms of section 19 of the Independence Order transitional provision is made for the payment of a monthly contribution towards the cost of services administered by the defendant for the remainder of the financial year which ended on 30th June, 1963, no such provision is made in respect of the other Federal Governments.

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The principal distinction as we see it, is that while in respect of the other Federal States the Uganda Government retains some control over the amount of the contribution to be made towards the cost of services administered by the Governments of those States and may through Parliament prescribe terms and conditions subject to which payment of such contribution shall be made, no such control exists in respect of, and no such terms and conditions may be prescribed for, Buganda.

The interpretation of the Schedule in general and of paragraph 1 of the Schedule in particular therefore assumes great significance, more particularly as the Uganda Government is not required to review under the provisions of section 20 of the Independence Order the provisions of section 107 of the Independence Constitution until 30th June, 1966.

It is clear, as we said earlier, that there are at least three widely differing meanings of which paragraph 1 of the Schedule is capable. Whichever of the meanings is to be adopted, in order to ascertain and give effect to the intention underlying the financial provisions of the Independence Order in relation to the Kingdom of Buganda, some violence must be done to the language of that paragraph.

We think we can reject at once the possibility that paragraph 1 of the Schedule means nothing more than that a calculation had been made of Buganda's financial requirements at the date on which the Independence Order was made and that the sum thus

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calculated was to be provided by the Uganda Government in the manner described in the two subparagraphs of the paragraph in question. Had such a calculation been made, as it may have been made in relation to the financial contribution for which provision was made by section 19 of the Independence Order, we have no doubt that detailed financial provision for the period commencing on 1st July, 1963, the date on which section 107 of the Independence Constitution came into operation, would have been in express terms and set out 10 in the same or a similar manner to that adopted for the transitional period ending on 30th June, 1963.

The defendant contends that the intention underlying section 107 of the Independence Constitution and the Schedule is that as the defendant is expressly excluded from the local authorities grant structure, and it is conceded that that exclusion is by its own wish, then the calculation to be made for the purposes of paragraph 1 of the Schedule is a calculation of the amount of money required by the defendant for the performance of such of its functions, the discharge of such of its duties and the exercise of such of its powers as stem from the provisions of the Constitution or of statute, and which it is thus under a constitutional or statutory obligation to perform, discharge or exercise; the amount so calculated is the sum of "Buganda's financial requirements" and that sum, without any deduction whatsoever, is to be provided in the manner described in subparagraphs (a) and (b) of paragraph 1 of the Schedule. If we understood Mr. Gratiaen's submissions correctly, he conceded that the formula provided by paragraph 10 of the Appendix should be used, in part, for calculating "requirements", but he argued that the effect of paragraph 10 as a whole was that having first calculated "requirements", the amount of the block grant is to be ascertained by deducting from those "requirements" the amount of additional revenue estimated to accrue to it from the proposals earlier set out in the Appendix with regard to taxation and non-tax revenue. We trust that we are not oversimplifying Mr. Gratiaen's arguments when we put it in this way. Following that argument, and again we trust that we are not oversimplifying the matter, Mr. Gratiaen submitted that what paragraph 1 of the Schedule envisaged was a calculation of Buganda's financial requirements and not of the amount of a block grant which would be payable to the defendant if the local authorities grant structure had been applied to it, and that therefore in calculating requirements the deduction of additional revenue should not be made. 20 30 40

In further support of his submissions, Mr. Gratiaen invited us to direct our minds to the question what benefit would accrue to the defendant if, having elected not to be one of the authorities eligible for full assistance from the local authorities grant structure as a whole, the amount of the financial assistance to be provided under section 107 of the Independence Constitution was only that amount which would be payable as an initial block grant under that structure. Where, he inquired, is the "quid pro quo"? We think we can deal with that particular point quite shortly by saying that we are not dealing with the interpretation of an agreement inter partes and so with the question of consideration. We could, if necessary, have discovered a number of aspects of the new constitutional financial relationship between the Uganda Government and the defendant which might have been thought to be of advantage to the defendant, but as we are not required to do so for the purposes of this suit, we decline to be drawn into speculation and render our task, at no time simple, even more difficult of performance.

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The plaintiff's case is that the amount of aid to be provided to the defendant under paragraph 1 of the Schedule is to be calculated in the same manner as if it were a block grant under the local authorities grant structure. The method of calculation of a block grant having been reviewed earlier in this judgment, it is, we think, unnecessary to go into the matter in any great detail. Such an interpretation necessarily requires certain textual changes in paragraph 1 of the Schedule, but as textual changes must inevitably be made if we are to interpret paragraph 1 at all, we are of the opinion that provided we can ascertain the intention of the legislator from the rest of the Independence Order and Constitution, aided by a consideration of the surrounding circumstances and historical background, we should not hesitate to modify the language used in order to give effect to the intention.

After considering all matters proper, in our judgment, to be considered, we have come to the conclusion that the intention underlying section 107 of the Independence Constitution and its dependent Schedule, which, as we have seen, makes provision for the Kingdom of Buganda different from that made for the other Federal States, is not so much to alter a method of calculation of the amount of aid to be supplied, a method which had been applied to

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the defendant in common with the other Federal States, as to effect changes in the method by which that amount of aid is to be supplied to the defendant. There is, we think, no dispute that the intention underlying subparagraphs (a) and (b) of paragraph 1 of the Schedule is that once the amount of money to be provided to the defendant has been calculated, one half of that sum is to be provided by the assignment of certain revenues, the Uganda Government ensuring that the revenue so derived does not fall below the amount while the remaining half is to be paid annually by the Uganda Government. We think that the use of the word "statutory" occurring in subparagraph (b) implies no more than that the amount required for making payment to the defendant is to be a charge on the Consolidated Fund as provided by section 107(2) of the Independence Constitution. 10

Having reached our conclusion as to the intention underlying the Schedule, we think it desirable to endeavour to rewrite paragraph 1 in such a way as to preserve its essential features, to do the minimum violence to the words occurring in it, but nevertheless to express what, in our opinion, that underlying intention is. We claim no particular virtues for our revised version of paragraph 1 other than to suggest that it may be a little more grammatical and perhaps possesses rather more clarity than it does in its existing form. This, then, is what we suggest - 20

" 1. The Delegations of the Central and Kabaka's Governments have agreed that in order to make provision for Buganda's financial requirements over and above the revenues raised from her own independent sources (including graduated tax), an amount, calculated in accordance with the formula adopted by the Central Government for the purpose of ascertaining the amount of the block grant payable to local authorities, will be provided by the Central Government in the following manner - 30 40

(a) as to one half of such amount, by the assignment of certain revenues raised in Buganda, it being intended that such revenues should be raised from petrol and diesel duty and the items mentioned in paragraph 3 below, the Central Government guaranteeing that such assigned revenues will yield not less than the sum required to be

provided under this sub-paragraph; and

(b) as to the remaining half of such amount by an annual contribution from general revenue which shall not be reduced without consultation with the Kabaka's Government."

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10 It will be noted that we have construed the words "on lines similar to" as "in accordance with". We do not consider, for reasons which we have endeavoured to express, that we are departing from the intention of the legislator in so doing. While conjecture concerning the reason for including an imprecise expression such as "on lines similar to" is probably idle, it may be that the defendant for reasons not unconnected with national pride in its ancient institutions, considers it inappropriate to be classified as a local authority and accordingly as we are informed by a typical piece of descriptive surplusage in paragraph 5 of the Schedule, was

20 excluded from the local authorities grant structure by its own wish. It is possible, therefore, that the use of the words "on lines similar to" was an attempt to avoid repugnancy with the provisions of paragraph 5 and to suggest that in making the calculation required by the provisions of paragraph 1 of the Schedule the provisions of the Appendix should be applied by analogy only. Another possible explanation may lie in the fact

30 that paragraph 10 of the Appendix refers to a calculation made "on thelines" therein set forth, and the use of the words "on lines similar to" may be an attempt to achieve consistency with paragraph 10.

40 We next turn to consider whether the amount to be paid or provided to the defendant under paragraph 1 of the Schedule should be calculated in respect of each financial year after section 107 of the Independence Constitution came into operation. We are of the opinion that it is not to be so calculated. If our opinion as to the construction of paragraph 1 of the Schedule is valid, then the calculation of the amount of financial assistance to be afforded to the defendant is a calculation to be made, in accordance with the principles we have endeavoured to define, at the time when section 107 of the Independence Constitution came into operation; part of that financial assistance is certainly to be provided by an annual payment from the revenues of the Uganda

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Government, but that fact does not mean that an annual calculation is to be made. Our opinion is, we think, fortified by the provisions of paragraph 2 and of paragraph 4 of the Schedule. Paragraph 2 provides for "a review of these arrangements" and we are of the view that that expression, read in conjunction with the remainder of the paragraph in question, means a review of the proportion which the annual statutory contribution is expressed to bear to the total amount of the financial assistance to be provided, and of the revenues selected for assignment. That may well necessitate a review of the amount of assistance to be provided under the terms of paragraph 1, but as we have not been asked to pronounce on that matter we refrain from doing so. Paragraph 4 of the Schedule makes provision for an increase in the statutory contribution to be made by the Uganda Government in the event of the assumption by the defendant of financial responsibility for "further services", and it is thus clearly the intention of the legislator that the Uganda Government's contribution from general revenue may be increased if further responsibilities are undertaken by the defendant. 10 20

Thus, if there is to be a review of the whole scheme of assistance to be afforded to the defendant (and it is to be recalled that by section 20 of the Independence Order that review must be undertaken not later than 30th June, 1966) and if further costs are to be met under the terms of paragraph 4 of the Schedule, it seems unlikely that the legislator intended that Buganda's financial requirements should be reviewed annually except to such extent as might be necessary for the purpose of paragraph 4 of the Schedule. 30

We conclude our examination of the Schedule by considering what meaning is to be given to the words "further services" occurring in paragraph 4. A reference to a note of the submission made by both learned counsel reveals that there is, in effect, no dispute on the question of what is meant by the expression, and both are agreed that the expression relates to functions, powers and duties entrusted, conferred or imposed under section 78 of the Independence Constitution, or services administered under an arrangement made pursuant to section 79 of that Constitution. Even if the agreement of the learned counsel on that matter had not been forthcoming, we should have reached that conclusion, but as it now appears to be common ground there is no necessity 40

for us to state our reasons.

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Similarly there is no dispute that the Uganda Government is bound by the provisions of the Constitution to make payments to the defendant in accordance with the true meaning of the Schedule.

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10 Although the point did not arise directly from the pleadings, we were asked to pronounce on the question whether on a proper construction of paragraph 5 of the Schedule, the defendant is excluded from the benefits of any of the specific grants for which the local authorities grant structure makes provision and which are not expressly excluded by the terms of paragraph 5. It appears to us that there is no dispute between learned counsel on the matter, nor indeed did it appear that any such dispute exists between the Uganda Government and the defendant. A grant known as an expansion grant was one form of relief which was expressly mentioned in argument. We are reluctant
20 to pronounce on a question which does not arise on the pleadings, except incidentally, but in order to assist counsel and the parties, and possibly to avoid further litigation, we are of the opinion, without expressly so deciding, that the defendant is not excluded by the provisions of paragraph 5 of the Schedule from applying for a grant available to local authorities under the grant structure and which is not a block grant or a grant to which paragraph 5 of the Schedule applies.

30 It will, we think, be convenient if we summarise our views on the manner in which the Schedule is to be implemented as follows -

(1) As to paragraph 1 -

(a) the amount for which provision is required to be made under paragraph 1 is to be calculated by adding together -

(i) the total amount of the recurrent grants made by the Uganda Government to the defendant in the financial year ending on
40 30th June, 1962, and

(ii) the total net cost to the Uganda Government for the year preceding transfer of any service or services transferred to the defendant on or prior to 30th June, 1963, and

In the High
Court
No. 5
Judgment
(continued)
4th May 1964

by deducting from the resulting total the amount of additional revenue estimated to accrue to the defendant during the financial year ending on 30th June, 1963, as a result of the implementation of the proposals contained in paragraphs 2 to 6 of the Appendix;

(b) the amount so ascertained shall be provided to the defendant in the manner specified in sub-paragraphs (a) and (b) of paragraph 1 of the Schedule, the Uganda Government being under an obligation to make good any deficiency if the amount received from the assigned revenues is less than one-half of the amount so ascertained; 10

(c) the amount for which provision is required to be made under paragraph 1 having been ascertained in the manner described in subparagraph (a) hereof, it remains unchanged until such time as it may be altered upon a review, and is not to be recalculated each year.

(2) As to paragraph 4 - 20

(a) the words "further services" mean functions, powers and duties which may after 1st July, 1963, be entrusted, conferred or imposed under section 78 of the Independence Constitution with the consent of the defendant and services which after 1st July, 1963, are administered by the defendant in pursuance of arrangements made between the Uganda Government and the defendant under the provisions of section 79 of the Independence Constitution; 30

(b) if any additional expenditure is incurred by the defendant by virtue of its assumption of responsibility for further services as thus defined, the Uganda Government will pay to the defendant such amount as may be agreed at the time the consent required under section 78 is given or the arrangement required under section 79 is made, as the case may be, and in default of any such agreement as to finance, the Uganda Government will pay to the defendant an amount calculated in the manner set out in paragraph 4(2)(b) of the 40
plaint, and any such amount shall, by virtue of the provisions of section 107(2) of the Independence Constitution, be a charge on the Consolidated Fund.

(3) The Uganda Government is under an obligation by virtue of the Independence Constitution to make financial provision to the defendant in accordance with our interpretation of the Schedule.

In the High Court

No. 5

Judgment
(continued)

4th May 1964

There will be declarations accordingly. The plaintiff will have his costs of this action, and we give our certificate for two counsel.

10

We end by expressing our appreciation of the assistance we have received from learned counsel for both parties in these proceedings. Their industry and the manner in which their submissions has been made have greatly facilitated our task of endeavouring to interpret a part of the Constitution on the inadequate drafting of which we have earlier made adverse comment.

E. UDO UDOMA

Chief Justice
4th May, 1964

K. G. BENNETT

Judge
4th May, 1964

20

G. B. SLADE

Judge
4th May, 1964

4. 5. 1964

Mugerwa for plaintiff.
Jayawardena for defendant.
Judgment read.

(Sgd) G.B. Slade
Judge
4.5.1964

30

In the High Court

No. 6

Decree

No. 6

Decree

IN THE HIGH COURT OF UGANDA

4th May 1964

CIVIL CASE NO. 462 OF 1963

ATTORNEY GENERAL OF UGANDA PLAINTIFF.

versus

THE KABAKA'S GOVERNMENT DEFENDANT.

D E C R E E

Claim for a declaration that Schedule 9 to the Constitution of Uganda is properly to be implemented in accordance with the contentions set forth in paragraphs 4, 5 and 6 of the Amended Plaintiff, or in the alternative if the Court be of opinion that the said Schedule is not properly to be so implemented, that the Court may declare how the said Schedule is to be implemented. 10

Counterclaim for a declaration that the true meaning of Schedule 9 to the Constitution of Uganda is as set out in paragraph 9 of the Amended Defence and Counterclaim and that the Government of Uganda is legally bound to make payments to the Kabaka's Government accordingly or, if the Court is not disposed to grant that declaration, that the Court may be pleased to declare - 20

- (i) the true meaning of the said Schedule 9; and
- (ii) that the Government of Uganda is legally bound to make payments accordingly to the Defendant Government.

This suit coming on for final disposal before the Honourable the Chief Justice, the Honourable Mr. Justice Bennett and the Honourable Mr. Justice Slade in the presence of Mr. Lawson and Mr. Mugerwa for the Plaintiff and Mr. Gratiaen, Mr. Jayawardena and Mr. Jayarajan for the Defendant IT IS ORDERED AND DECREED that a declaration shall be granted that Schedule 9 to the Constitution of Uganda is to be implemented as follows - 30

(1) As to paragraph 1 -

- (a) the amount for which provision is required

to be made under paragraph 1 is to be calculated by adding together -

In the High Court

- (i) the total amount of the recurrent grants made by the Uganda Government to the defendant in the financial year ending on 30th June, 1962, and

No. 6
Decree
(continued)
4th May 1964

- 10 (ii) the total net cost to the Uganda Government for the year preceding transfer of any service or services transferred to the defendant on or prior to 30th June, 1963, and

20 by deducting from the resulting total the amount of additional revenue estimated to accrue to the defendant during the financial year ending on 30th June, 1963, as a result of the implementation of the proposals contained in paragraphs 2 to 6 of Appendix G to the Report of the Uganda Constitutional Conference, 1961 (Cmd.1523);

- (b) the amount so ascertained shall be provided to the defendant in the manner specified in subparagraphs (a) and (b) of paragraph 1 of the Schedule, the Uganda Government being under an obligation to make good any deficiency if the amount received from the assigned revenues is less than one-half of the amount so ascertained;

- 30 (c) the amount for which provision is required to be made under paragraph 1 having been ascertained in the manner described in subparagraph (a) hereof, it remains unchanged until such time as it may be altered upon a review, and is not to be re-calculated each year.

(2) As to paragraph 4 -

- 40 (a) the words "further services" means functions, powers and duties which may after 1st July, 1963, be entrusted, conferred or imposed under section 78 of the Constitution of Uganda with the consent of the defendant and services which after 1st July, 1963, are administered by the defendant in pursuance of arrangements made between the Uganda

In the High Court

No. 6

Decree
(continued)
4th May 1964

Government and the defendant under the provisions of section 79 of the Constitution of Uganda;

(b) if any additional expenditure is incurred by the defendant by virtue of its assumption of responsibility for further services as thus defined, the Uganda Government will pay to the defendant such amount as may be agreed at the time the consent required under section 78 is given or the arrangement required under section 79 is made, as the case may be, and in default of any such agreement as to finance, the Uganda Government will pay to the defendant an amount calculated in the manner set out in paragraph 4(2)(b) of the plaint, and any such amount shall, by virtue of the provisions of section 107(2) of the Constitution of Uganda, be a charge on the Consolidated Fund.

10

(3) The Uganda Government is under an obligation by virtue of the Constitution of Uganda to make financial provision to the defendant in accordance with the interpretation of the Schedule given by the Court in this suit.

20

AND IT IS ORDERED that the Defendant shall pay the Plaintiff's costs of the suit.

Given under my hand and the seal of the Court this 4th day of May, 1964.

REGISTRAR.

No.7

No.7

30

Order granting Conditional Leave to Appeal to Privy Council

ORDER Granting Conditional Leave to Appeal to Privy Council

IN THE HIGH COURT OF UGANDA AT KAMPALA

24th June 1964

CIVIL CASE No.462 of 1963

THE ATTORNEY GENERAL OF UGANDA PLAINTIFF

versus

THE KABAKA'S GOVERNMENT DEFENDANT

Before - The Honourable Mr. Justice Sheridan

In the High Court

O R D E R

No. 7

This is an application for leave to appeal to Her Majesty in Council under rule 3 of the Rules Regulating Appeals to Her Majesty in Council, as set out in the Schedule to the Appellate Jurisdiction Act, 1962 (No.1 of 1962) as read with section 96(1) of the Constitution of Uganda.

Order granting Conditional Leave to Appeal to Privy Council (continued)

24th June 1964

10 The application is unopposed and I grant it subject to the usual conditions as to security for costs and such other conditions as are set out in Rule 4 of the Rules.

Costs of this application will be costs in the appeal.

The learned Solicitor General has asked me to note that counsel appearing for the respondent at the hearing of the appeal shall be free, if so advised, to raise the question of jurisdiction.

(Sgd) D. J. SHERIDAN

Judge
24th June, 1964

20

No. 8

No.8

Order granting Final Leave to Appeal to Privy Council

Order granting Final Leave to Appeal to Privy Council

15th July 1964

IN THE HIGH COURT OF UGANDA AT KAMPALA

CIVIL CASE NO.462 of 1963

THE ATTORNEY GENERAL OF UGANDA PLAINTIFF

versus

THE KABAKA'S GOVERNMENT DEFENDANT

Before - The Honourable Mr. Justice Jones

30 O R D E R

The conditions set out in Sheridan J's order of the 24th June, 1964 having been satisfied I grant final leave to appeal to the Privy Council.

Costs of this application to be costs in the appeal.

(Sgd) D. J. JONES
Judge. 15th July, 1964

Exhibits

A

EXHIBIT A - Letter, Ministry of Finance, Uganda
Government to Omuwanika, Kabaka's
Government

Letter,
Ministry of
Finance,
Uganda
Government
to Omuwanika,
Kabaka's
Government
13th March
1962

Ministry of Finance,
P.O.Box 103,
ENTEBBE.

Ref. F.C.397/6

13th March, 1962

Owek. Omuwanika,
H.H. The Kabaka's Government,
P.O. Box 91,
KAMPALA.

10

Sir,

BLOCK GRANT TO H.H. THE KABAKA'S
GOVERNMENT, 1962/63

, Paragraph 147 of the Report of the Uganda Constitutional Conference, 1961 (Cmmd.1523), records the Conference's agreement "that the arrangements set out in a Memorandum by the Governor of Uganda (at Appendix G) should provide a financial bases upon which Uganda will be able to proceed to the stage of internal self-government without prejudice to any future fiscal arrangements that may be considered desirable in the light of the report of the proposed Fiscal Commission." The Conference recognised that certain paragraphs of Appendix G, including those on grants and new services, would require further detailed examination in Uganda in consultation with the Authorities.

20

2. Paragraph 10 of Appendix G recommended "that each Authority should receive an initial block grant calculated broadly on the following lines:-

30

- (a) Starting point -- present recurrent grants.
- (b) Add 100 per cent of the net cost, in the year prior to transfer, of any services newly transferred.
- (c) Deduct additional revenue to Authorities resulting from proposals in paragraphs 2 to 6 above".

The relevant recommendations of paragraphs 2 to 6 of the Appendix can be summarized as follows:-

- | | | |
|----|---|--|
| | (i) Authorities' graduated tax should apply to adult males of all races; | Exhibits
— |
| | (ii) African poll tax and non-African poll tax and Education tax (levied by the Protectorate Government) should be abolished; | A |
| | (iii) revenue from Crown Land rents in towns should be transferred to Authorities (as is already the case for Crown Land rents in rural areas); | Letter,
Ministry of
Finance,
Uganda
Government
to Omuwanika,
Kabaka's
Government
(continued) |
| 10 | (iv) Authorities should receive 100% of mineral royalties (as opposed to 75%) subject to retention of the existing provisos; | 13th March
1962 |
| | (v) revenue from trading licences should be transferred to the Authorities of the areas for which the licences are issued. | |

Paragraph 11 of Appendix G recommended that 50% of the cost of Teachers salaries' revision should be included in the Block Grants.

- 20 3. I now enclose a detailed statement of the Block Grant which Government estimates will accordingly be payable to H.H. the Kabaka's Government in 1962/63. It is regretted that it has not been possible to forward this to you as early as had been hoped. Every attempt has been made to ensure the accuracy and completeness of the enclosures. It is, however, necessary to stipulate that the calculations contained therein must remain subject to amendment, in consultation with you, in the light of:--
- 30 (i) re-checking of the details, covering such a wide field, which have of necessity been somewhat rapidly collated;
- (ii) review by the Protectorate Government up to 30th June, 1962, of the financial implications of the new arrangements;
- (iii) any points which may be raised by your Government - see paragraph 6 below.

4. Particular attention is drawn to the following points:-

Exhibits

A

Letter,
Ministry of
Finance,
Uganda
Government
to Omuwanika,
Kabaka's
Government
(continued)
13th March
1962

- (a) the calculation of the additional revenue for graduated tax assumes that H.H. the Kabaka's Government will collect graduated tax in Kampala and the other towns for which the Protectorate Government retains some responsibility. It was recorded in paragraph 132 of the London Conference Report that this issue would require further consideration in Uganda. If the eventual decision is that Kampala or other towns should collect graduated tax, the calculation will require adjustment (with no net loss to H.H. the Kabaka's Government). 10
- (b) calculation has not yet been completed of any sum which may be due to be transferred to your Government from the Ministry of Works "Maintenance of buildings" vote in respect of buildings handed over with newly transferred services. You will be informed of any sum which should be added to your Block Grant in this respect as soon as possible. 20
- (c) At present, H.H. the Kabaka's Government enjoys exemption from customs duty on Crown Agents supplies imported against indents countersigned by the Protectorate Government. Similarly, your Government's postage charges on franked internal mail are borne by Protectorate Government funds. These arrangements are considered inappropriate in future circumstances, and it is intended to withdraw these privileges, against an increase in the Block Grant corresponding to the additional expenditure thus involved. 30
- (d) Similarly, it may be necessary to increase the Block Grant in respect of agency fees chargeable by the Protectorate Government on Stores, the cost of which is included in the attached estimates on newly transferred services.
- (e) with regard to paragraph 2(iii) above, the figures for the transfer of revenue from Crown Lands rents may have to be increased as a result of Government's review of the policy for unalienated urban land. 40
- (f) reference the recommendation in Appendix G of the London Conference Report, referred to in

paragraph 2(v) above, that trading licences revenue should be transferred, it does not appear practicable to pursue this proposal for the time being, as no break-down exists - as between towns and neighbouring Authorities - of payments for such licences made in the various District Cash offices. The net effect is, of course, the same, as - if this revenue were transferred - a corresponding reduction would be made to the Block Grants.

10

(g) if H.H. the Kabaka's Government rates Protectorate Government properties in Buganda towns, the Block Grants would be liable to deduction accordingly.

(h) no provision is made in the attached estimates for the cost of secondment charges ("Miscellaneous contributions") in respect of additional Protectorate Government staff who will be seconded in connection with the newly transferred services. Such expenditure would of course qualify for a 100% addition to the Block Grant in accordance with paragraph 10(b) of Appendix G - quoted in paragraph 2 above. This would in other words be a self-cancelling double entry, and for the time being will be excluded from these calculations. The present intention is to raise no secondment charges, in 1962/63, on additional seconded staff connected with newly transferred services, and to raise secondment charges in 1963/64 when an addition can be made to the Block Grant based on actual salaries paid in 1962/63.

20

30

(i) It is intended to pay over the Block Grant in monthly instalments. Reimbursements by H.H. the Kabaka's Government of the cost of seconded staff (subject to (h) above) will similarly be claimed at monthly intervals, instead of allowing them to accumulate (as under the present arrangements) until near the end of the financial year.

40

5. It will be seen that this memorandum deals only with the Block Grant and connected matters. Action

Exhibits

—
A

Letter,
Ministry of
Finance,
Uganda
Government,
to Omuwanika,
Kabaka's
Government
(continued)

13th March
1962

Exhibits

A

Letter,
Ministry of
Finance,
Uganda
Government,
to Omuwanika,
Kabaka's
Government
(continued)
13th March
1962

is being taken separately in regard to any expansion (and deficiency) grants for which provision may be required in 1962/63 (vide paragraphs 13 to 15 of Appendix G).

6. It is suggested that your Government should take up direct with the Protectorate Government Ministries concerned any detailed points which you have on the enclosures, (copying any correspondence to this Ministry). Any alterations which may then be proposed in the attached calculations, together with any general points, can then be raised with this Ministry in discussions which can be arranged as required. 10

7. The Permanent Secretary to the Ministry of Local Government will correspond with you separately on the subject of grants to the Masaka and Mengo Municipal Councils.

8. For your convenience, this memorandum and enclosures are sent to you in duplicate.

I have the honour to be,
Sir,
Your obedient Servant,

20

(J. G. Huddle)
for SECRETARY TO THE TREASURY.

BLOCK GRANT ESTIMATED TO BE PAYABLE TO
H.H. THE KABAKA'S GOVERNMENT IN 1962/63.

Exhibits

SUMMARY (For details see attached sheets)

A

(1) ESTIMATED NETT COST TO UGANDA GOVERNMENT IN
1961/62 OF SERVICES TO BE TRANSFERRED.

Letter,
 Ministry of
 Finance,
 Uganda
 Government,
 to Omuwanika,
 Kabaka's
 Government
 (continued)
 13th March
 1962

10

	£
(a) Education	35,782
(b) Medical	111,103
(c) Borehole Maintenance	4,790
(d) Fisheries	370
(e) Buganda Town Services	6,145
(f) African Housing	- 25
(g) Urban Water Supplies	-187
(h) Crown Land Control	390
Total (1)	<u>£158,368</u>

20

(2) EXISTING RECURRENT GRANTS

	£
(i) Education	571,683
(j) Medical	166,100
(k) Dam Maintenance	1,050
(l) Natural Resources	161,519
(m) General Administration	165,600
(n) Road Maintenance	40,680
Total (2)	<u>£1,106,632</u>

Total of (1) and (2) 1961/62 cost of newly
 transferred services plus existing
 Recurrent Grants - £1,265,000

30

(3) ESTIMATED ADDITIONAL REVENUE

	£
(o) Extra Graduated Tax	386,467
(p) Crown Land Rents(Nett)	1,460
(q) Mineral Rents & Mining Royalties (Nett)	<u>3</u>
Total (3)	<u>£ 387,930</u>

ESTIMATED BLOCK GRANT

(1) plus (2) minus (3) £ 877,070

Exhibits

BLOCK GRANT DETAILS (H.H. THE KABAKA'S GOVERNMENT)(1) ESTIMATED NETT COST TO UGANDA GOVERNMENT IN 1961/62
OF SERVICES TO BE TRANSFERRED

A
Letter,
Ministry of
Finance,
Uganda
Government,
to Omuwanika,
Kabaka's
Government
(continued)
13th March
1962

UGANDA GOVERNMENT ESTIMATES			Transferred		NOTES
Vote No.	Sub-head/item ref.	Title	Financial provision	No. of posts	
<u>(1)(a) EDUCATION</u>					10
Group A.B. and C Schools. Rural Trade Schools: Leper Schools. Women's Home- craft Centres.					
10-1	2A8	Education Officers	1,671	1	
10-1	2A26	Clerks	250	1	
10-1	2B	Travelling & Transpt:Staff	350		
10-1	2D2	Incidentals	10		
10-1	2E1	Government Primary Schools	115		
10-1	2F1	Grants to Primary Schools	21,242		20
10-1	2F3	Grants to Junior Secondary Schools	2,190		
10-1	2G1	Grants for Technical Education	6,841		
10-1	2H2	Grants to Leper Schools	1,150		
10-1	2H5	Women's Homecraft Centres	700		
10-1	2J	Retirement Benefits for Teachers	1,298		
1-2	A4	Revenue Refunds Schools Fees	<u>5</u>		30
Gross Total			35,822		
<u>APPROPRIATION-IN-AID</u>					
10-1	Z.11	Fee/Costs Differentials - Self governing Schools - Government Primary Scyools	<u>40</u>		
Nett Grant Payable Education			£35,782		

(1)(b) MEDICAL.

Transfer of Masaka Hospi-
tal (excluding the Training
School) and Entebbe Hospital
(excluding Grade A out-
patients department and
Dental Clinic).

40

UGANDA GOVERNMENT ESTIMATES					Exhibits
Vote No.	Sub-head/item ref.	Title	Transferred		NOTES
			Finan- cial provi- sion	No. of posts	
		Transfer of Masaka Hospital (excluding Training School)			Letter, Ministry of Finance, Uganda Government to Omuwanika, Kabaka's Government (continued)
11-1	A	Medical Officers		7	
"	"	Matron		1	
"	"	Nursing Sisters		5	
"	"	Dental Surgeon		1	13th March 1962
"	"	Hospital Superintendent		1	
"	"	Asst. " "		1	
"	"	Clerks		4	
"	"	Clerical Assistants		2	
"	"	Clinic Writers		4	
"	"	Dispensers		3	
"	"	Laboratory Attendants		2	
"	"	Laboratory Assistants		3	
"	"	X-Ray Assistants		1	
"	"	X-Ray Attendants	43,018	1	
"	"	Stores Assistants		1	
"	"	Storeman		1	
"	"	Telephone Operators		4	
"	"	Nurse/Midwives		4	
"	"	Certificated Nurses(Male)		2	
"	"	Certificated Nurses(Female)		12	
"	"	Medical Assistants		12	
"	"	Nursing Assistants		8	
"	"	Dressers		38	
"	"	Wardmaids		60	
"	"	Office Messengers		4	
"	"	Drivers		3	
"	"	Seamsters		3	
"	"	Headman		1	
"	"	Dhobies and Cooks		4	
"	"	Vaccinator		1	
"	"	Watchmen		9	
"	"	Carpenter		1	
"	"	Mason		1	
"	"	Handyman		1	
11-1	F.1	Stores, Drugs & Equipment	19,250		
11-1		Other Charges (Travelling & Transport, Casual Labour and Telephone Charges	21,150		
		GRANT FOR MASAKA. C/F	83,418	206	

Exhibits

A

Letter,
Ministry of
Finance,
Uganda
Government
to Omuwanika,
Kabaka's
Government
(continued)
13th March
1962

		UGANDA GOVERNMENT ESTIMATES			
				Transferred	
Vote	Sub-head/ item ref.	Title	Finan- cial provi- sion	No. of posts	NOTES
		Grant for Masaka B/F	83,418	206	
		TRANSFER OF ENTEBBE HOSPITAL (excluding Grade 'A' Outpatients and Dental Clinic).			10
11-1	A	Medical Officers		2	
"	"	Nursing Sister		1	
"	"	Clerks		3	
"	"	Clinic Writers		2	
"	"	Dispenser		1	
"	"	Laboratory Assistant		1	
"	"	Pharmacy Orderly		1	
"	"	Asst.Storekeeper		1	
"	"		14,870		20
"	"	Telephone Operator		1	
"	"	Nurse/Midwife		1	
"	"	Midwives		3	
"	"	Nurse		1	
"	"	Medical Assistants		6	
"	"	Nursing Assistants		5	
"	"	Dressers		19	
"	"	Wardmaids		15	
"	"	Office Boys		4	
"	"	Cooks		5	30
"	"	Dhobies		4	
"	"	Drivers		4	
"	"	Headman		1	
"	"	Watchman		1	
"	"	Handyman		1	
"	"	Health Orderlies		4	
"	"	Seamstress		1	
"	F 1	Stores, Drugs & Equipment	6,500		
11-1		Other Charges			
		(Travelling & Transport, Casual Labour & Telephone Charges			40
			<u>6,315</u>		
		GRANT FOR ENTEBBE	27,685		
		GRANT PAYABLE MEDICAL		111,103	294

UGANDA GOVERNMENT ESTIMATES						Exhibits
Vote No.	Sub-head/ item ref.	Title	Transferred		NOTES	A Letter, Ministry of Finance, Uganda Government to Omuwanika, Kabaka's Government (continued) 13th March 1962
			Finan- cial provi- sion £	No. of posts		
<u>(1)(c) BOREHOLE MAINTENANCE</u>						
8-1	4A3	Driller/Overseer	1,810	2		
"	4A7	Subordinate Service	850	8		
10	"	4B1 Travelling & Transport	600			
"	4B2	Operation & Maintenance of Vehicles	350			
"	4C1	P.O. Services, Water etc.	30			
"	4D1	Stores and Equipment	800			
"	4D2	Labour	350			
GRANT PAYABLE - BOREHOLE MAINTENANCE			£4,790			
<u>(1)(d) FISHERIES SERVICE</u>						
The Administration of Minor Waters & Fishponds						
20	8-1	7A.8 Fisheries Assistants (Grade II)	230	2		
"	7B.1	Travelling & Transport: Staff	60			
"	7C.3	Stores and Equipment	40			
"	7E.1	Fisheries: Development & Control	40			
GRANT PAYABLE - FISHERIES SERVICE			370			

Exhibits

		UGANDA GOVERNMENT ESTIMATES				
				Transferred		
Letter, Ministry of Finance, Uganda Government to Omuwanika, Kabaka's Government (continued) 13th March 1962	Vote No.	Sub- head/ item ref.	Title	Finan- cial provi- sion £	No. of posts	NOTES
			(1)(e) BUGANDA TOWN SERVICES			
	9-2	2A1	Town Superintendents	899	2	10
	"	2A2	Subordinate Service	720	9	
	"	2B	Travelling & Transport: Staff	130		
	"	2C1	& Town Services: Public Health Works & Street Lighting	14,782		
	"	2				
	"	2D	Special Expenditure	160		
			GROSS TOTAL	16,691	11	
			<u>APPROPRIATIONS-IN-AID</u>			
	9-2	23 &	Assessment Rates			20
		24	Conservancy & Market Fees	10,546		
			BUGANDA TOWN SERVICES - NET GRANT PAYABLE	6,145		
			(1)(f) AFRICAN HOUSING			
			Butabika Estate, Port Bell			
	13-2	K.1	Operation of Estates	15		
		K.2	Maintenance of Estates	10		
			GROSS TOTAL	25		
			<u>APPROPRIATIONS-IN-AID</u>			
	13-2	Z.25	Rents from African Housing Estates	50		30
			NETT GRANT PAYABLE AFRICAN HOUSING	£ -25		

UGANA GOVERNMENT ESTIMATES						Exhibits
Vote No.	Sub-head/ item ref.	Title	Transferred		NOTES	A Letter, Ministry of Finance, Uganda Government to Omuwanika Kabaka's Government (continued) 13th March 1962
			Finan- cial provi- sion £	No. of posts		
<u>(1)(g) URBAN WATER SUPPLIES</u>						
		Kalisizo and Wobulenzi				
10	13-1	B Travelling & Transport	33			
	13-2	A.1 Maintenance of Buildings	13			
	"	D.1 Urban Water Supplies	400			
	"	D.5 Installation in Private Premises	50			
		H. Leave Pay to unestablished employees		7		
		GROSS TOTAL	503			
<u>APPROPRIATIONS-IN-AID</u>						
	13-2	Z.1 Urban Water Supplies	650			
20		Z.3 Installation in Private Premises		40		
		TOTAL	690			
NETT GRANT PAYABLE						
URBAN WATER SUPPLIES			£-187			
<u>1(h) CROWN LAND CONTROL</u>						
8-2	1A2	Crown Land Patrolmen	360	3		
	1B	Travelling & Transport Staff	30			
GRANT PAYABLE -						
CROWN LAND CONTROL			£ 390	3		

Exhibits

A

Letter,
Ministry of
Finance,
Uganda
Government
to Omuwanika,
Kabaka's
Government
(continued)
13th March
1962

BLOCK GRANT DETAILS (H.H. THE KABAKA'S GOVERNMENT)(2) EXISTING RECURRENT GRANTS - EXPLANATORY NOTES

(N.B. The Uganda Government's 1961/62 Estimates are referred to in these notes as the "ESTIMATES".)

(2)(i) EDUCATION

Made up as follows:-

- (i) £514,452 (Estimates Vote 10-2 J 1. Transferred Services grants £2,978 of Estimates provision now being transferred to Kampala). 10
- (ii) £13,116 (Buganda's allocation from Estimates Vote 10-2 J 11. Transferred Services increased costs).
- (iii) £44,115 (Estimates Vote 10-2 K. Teachers Salaries Revision). This is 50% of the estimated 12 months 1961/62 cost of Teachers Salaries Revision, vide para.11 of Appendix G to the London Conference Report).

(2) (j) MEDICAL

20

Equals the provision in the Estimates under Vote 11-2. Items E.1 and 2, Transferred Services Grants.

(2) (k) DAM MAINTENANCE

Buganda's allocation from Estimates Vote 8-2. 2H. (Dam Maintenance Grants).

(2) (1) NATURAL RESOURCES

Made up as follows:-

- (i) £ 44,606 in Estimates Vote 7-2, 1E1(Transferred Services Grant - Ministry of Natural Resources). 30
- (ii) £ 78,748 " " " " 1E2(Transferred Services Agricultural Services)
- (iii) £ 35,626 " " " " 1E3(Transferred Services Veterinary Services)

	(iv) £ 1,000 being Buganda's allocation from Estimates Vote 7-2 Transferred Services Grant - Increased Costs.	Exhibits <u> </u> A
	(v) £ 250 in Estimates Vote 7-2, 1E7 (Transferred Services Grant - Buildings Maintenance).	Letter, Ministry of Finance, Uganda Government to Omuwanika, Kabaka's Government (continued)
	(vi) £ 1,289 for newly transferred Crop Marketing Officer Post. <u> </u> <u>£161,519</u> <u> </u>	13th March 1962
10	<u>(2) (m) GENERAL ADMINISTRATION</u> Equals the provision in the Estimates under Vote 9-3, Item G.15 (General Administration Grants).	
	<u>(2) (n) ROAD MAINTENANCE</u> Buganda's allocation from Estimates Vote 13-2, B.3. (Road Maintenance Grants).	

BLOCK GRANT DETAILS (H.H. THE KABAKA'S GOVERNMENT)

(3) ESTIMATED ADDITIONAL REVENUE - EXPLANATORY NOTES

20 (N.B. The Uganda Government's 1961/62 Estimates are referred to in these notes as the "ESTIMATES").

(3) (o) EXTRA GRADUATED TAX

Made up as follows:-

- (i) £134,737 being that part of the African Poll Tax revenue (Estimates, Revenue Head II, Item A.1), foregone by the Uganda Government with effect from 1st January, 1963, relating to Buganda.
- 30 (ii) £251,730 being the estimated yield from the application of graduated tax, with effect from 1st January, 1963, to non-Africans in Buganda. The latest census figures for non-African population are used, and taxpayers are taken as one quarter of the population. The estimate is arrived at by assuming that all European taxpayers (1,671) will pay the maximum rate of Shs.600/- and that Asian taxpayers (totalling 10,085) will pay an average of Shs.400/- each.

Exhibits(3) (p) CROWN LAND RENTS (NETT)

A

Letter,
Ministry of
Finance,
Uganda
Government
to Omuwanika,
Kabaka's
Government
(continued)
13th March
1962

Made up as follows:-

(i)	Buganda's share of land rents revenue foregone by the Uganda Government (Estimates, Revenue Head V, Items 1 and 2) -	£3,700	
	<u>LESS</u>		
(ii)	Revenue already assigned to Buganda from Estimates, Vote 8-2, Item 2D1 (Assignment of Crown Land Rents)	£1,770	10
(iii)	Agency fee of 12½% of Rent Roll -	£ 470	
		£2,240	
		<u>NETT VALUE</u>	<u>£1,460</u>

(3) (q) MINERAL RENTS AND MINING ROYALTIES (NETT)

Made up as follows:-

(i)	Buganda's share of revenue from Mining Rents etc. and Mineral Royalties, foregone by the Uganda Government (Estimates, Revenue Head V, Items 3 & 4)	£13	20
(ii)	<u>LESS</u> revenue already assigned to Buganda from Estimates, Vote 8-12, Items 2D2 and 2D3	£10	
		<u>NETT VALUE</u>	<u>£ 3</u>

C

EXHIBIT C. STATEMENT OF JOHN G. HUDDLE

Statement of
John G. Huddle
17th April
1964

IN THE HIGH COURT OF UGANDA AT KAMPALACIVIL CASE No.462/63

BETWEEN

ATTORNEY GENERAL OF UGANDA

Plaintiff

and

KABAKA'S GOVERNMENT

Defendant

30

STATEMENT OF JOHN GEOFFREY HUDDLE

JOHN GEOFFREY HUDDLE now of Overdale, Hazlemere,
near High Wycombe, in the County of Buckingham, England,
will say -

1. I held the appointment of Second Secretary (Treasury) in the Ministry of Finance, Government of Uganda, from June 1962 until I resigned from the service on 16th December, 1963. I had entered the service of the Uganda Government in 1950 and had joined the Ministry of Finance in October 1956. Thereafter I was specially concerned in the financial relationships between the Central Government and the Governments of the subordinate Authorities, including the Kingdoms, and from 1961 onwards I was the Minister's principal adviser on these matters until the time of my retirement.

Exhibits

C

Statement of
John G. Huddle
(continued)17th April
1964

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Local Authorities Grant Structure up to 1st July 1962

2. Up to the 30th June, 1962 the practice was for the Central Government to pay to all Kingdoms and District Authorities a variety of recurrent grants for specific purposes, payments of which were adjusted after each accounting period in the light of actual expenditure. The principal types of specific grants were:-

20

- (a) General Administration Grants, through which the Central Government met 50% of the approved salaries of specified grades of Authorities' staff concerned in general administration and law and order.
- (b) Grants for Particular Transferred Services, e.g. water supplies, rural health services. Under these grants the Central Government met 100% of the cost of a service at the time of transfer to an Authority, plus 50% of approved annual increases in cost thereafter.
- (c) Road Maintenance Grants. These were made to help Authorities maintain local roads which had a place in the national communications system and were calculated on the basis of approved cost of maintenance per mile, of which approved cost the Central Government met various percentages according to the proportion of the national interest in those communications.
- (f) There were a variety of other special grants, e.g. for dam maintenance, appointments boards, and in the case of one Authority deficiency grants have been paid.

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Exhibits

The Block Grant System

C
Statement of
John G.Huddle
(continued)
17th April
1964

3. With effect from the financial year beginning on the 1st July, 1962, the above structure was replaced by a system of block grants for all the Authorities. As the name implies, a block grant is made as one payment to assist Authorities in the carrying out of a variety of functions, and payments of a block grant are not subject to adjustment in the light of actual expenditure. The decision to change to the block grant system stemmed from the agreement of the 1961 Uganda Constitutional Conference (October 1961), recorded in paragraph 147 of its Report (Command 1523), to accept on an interim basis the proposals of the Governor of Uganda on financial relationships set out in Appendix G to that Report (see pp.38-42). The basis for calculating the block grants for 1962/3 followed paragraph 10 of Appendix G, which reads:-

"10. In these circumstances it is, therefore, recommended that each Authority should receive an initial block grant calculated broadly on the following lines:-

- (a) Starting point - present recurrent grants.
- (b) Add 100 per cent. of the net cost, in the year prior to transfer, of any services newly transferred.
- (c) Deduct additional revenue to local Authorities resulting from proposals in paragraphs 2 to 6 above."

4. Following the 1961 Conference, the Central Government undertook a study of the detailed implications of the effect of the basis of calculation set out in the paragraph quoted for each Authority. In the Uganda Secretary to the Treasury's letter to the Omwanika, reference FC.397/6, of 13th March 1962, (of which I was the author), the Central Government invited the Kabaka's Government's comments upon its detailed calculations for the block grant which it proposed to pay to Buganda accordingly in 1962/63. Similar letters were addressed by the Ministry of Local Government to the other Authorities, to each of which were attached appendices showing the calculation of the block grant in the case of each Authority, which calculations proceeded on exactly the same basis as the calculations in the case of the Kabaka's Government. Some changes of detail were made in the calculations set out in the enclosures to the March letters addressed to the Kabaka's Government and the other Authorities, following which

provision was made in the 1962/63 Uganda Government Estimates for the sums decided upon. Block grants have continued to be paid to Authorities other than Buganda on the same basis for the period following the 1962/63 financial year; but since the coming into operation of section 108 of the Uganda Constitution in the case of the Federal States these payments have been charged on the Consolidated Fund of Uganda.

Exhibits

C

Statement of
John G. Huddle
(continued)17th April
1964

10 5. Within the grant structure there is provision for paying deficiency grants (including a "catching-up" element) to needy Districts and for additional payments to assist with the cost of salaries increments.

Buganda's Position.

20 6. Up to the 30th June 1962 grants were paid to Buganda on precisely the same basis as other Authorities, subject to the provision of Article 94 of the Uganda Constitution Order in Council, 1962 of 1st March 1962 which charged payments to Buganda on the revenues of the Protectorate.

7. In the 1962/63 Uganda Government Estimates for the period beginning 1st July 1962, the Central Government's payments to the Kabaka's Government were styled "statutory contribution", though their calculation was made on the block grant basis referred to in paragraphs 3 and 4 above.

30 8. Payments by the Government of Uganda to the Kabaka's Government between the 1st October 1962 and the 30th June, 1963 were made pursuant to the provisions of section 19 of the Uganda (Independence) Order in Council, 1962. The basis of calculation was unchanged subject to the effect of the Central Government's decision regarding non-African graduated tax revenue, contained in the letter dated the 28th December 1962 from the Minister of Finance to the Omuwanika, of which I annex a copy marked "J.G.H.1".

Buganda - Assigned Revenues.

40 9. The provision of Article 19 of the Uganda (Independence) Order in Council that payments to Buganda "may include sums equal to" the proceeds, or in one case a proportion of the proceeds, of the types of revenue specified therein was in the middle of 1963 introduced with retrospective effect from the 1st March 1963.

Exhibits

Specific Education Grant

C
Statement of
John G.Huddle
(continued)
17th April
1964

10. A proposal had emerged from the 1962 Independence Conference that provision for education should be taken out of the block grant system and put upon a specific grant basis. As arranged, a detailed study of the implications of this proposal was undertaken by the Central Government in consultation with the authorities affected, as a result of which it was considered by the Central Government impracticable to implement this proposal.

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JOHN G. HUDDLE

17th April, 1964.

EXHIBIT J.G.H.1 TO THE STATEMENT
OF JOHN GEOFFREY HUDDLE

MINISTRY OF FINANCE,
P.O. BOX 103,
ENTEBBE.
28th December, 1962.

Ref. F.C.2667

Owek. Omuwanika,
H.H. The Kabaka's Government,
P.O. Box 91,
Kampala.

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FINANCIAL SETTLEMENT BETWEEN THE CENTRAL
GOVERNMENT AND THE KABAKA'S GOVERNMENT

In pursuance of the terms of the 9th Schedule to the Uganda Constitution, the Central Government has decided that the graduated tax levied on non-Africans in Buganda should not count in the calculation of the contribution which the Central Government gives to the Kabaka's Government.

30

The Central Government has also agreed that the contributions to the Kabaka's Government should be made in bi-monthly instalments, instead of monthly instalments as has been hitherto. I hope these arrangements will be found satisfactory to you.

(A. KALULE SEMPA.
MINISTER OF FINANCE.

Copy to: The Hon. A.M. Obote,
Prime Minister.

EXHIBIT C1 - FURTHER STATEMENT OF JOHN G. HUDDLE

Exhibits

IN THE HIGH COURT OF UGANDA AT KAMPALAC1CIVIL CASE NO. 462/63Further State-
ment of John G.
Huddle

BETWEEN

ATTORNEY GENERAL OF UGANDA

Plaintiff

17th April 1964

and

KABAKA'S GOVERNMENT

Defendant

FURTHER STATEMENT OF JOHN GEOFFREY HUDDLE

10 1. In paragraph 8 of my earlier statement, under the heading "Buganda's position" on page 4, I referred to "the basis of calculation of the payments made by the Uganda Government to the Kabaka's Government during the period from the 1st October, 1962, to the 30th June, 1963. I stated therein that such payments were made pursuant to the provisions of section 19 of the Uganda (Independence) Order in Council, 1962. Sub-section (1) of that section provided that payments "shall not be less than £75,000 in respect of each month" (i.e. at a rate of not less than £900,000 per annum).

2. Though the constitutional authority for payments to Buganda was changed in October, 1962, with the coming into effect of section 19 of the Uganda (Independence) Order in Council, the basis on which the payments were calculated had regard to the twelve-month period of the financial year, beginning on July 1st, 1962.

30 3. The calculation of the payments made by the Uganda Government to the Kabaka's Government for the financial year beginning on July 1st, 1962, can be summarised as follows:-

(a) £877,070, being the product of the calculations attached to the Secretary to the Treasury's letter to the Omuwanika, ref. FC.397/6 of March 13th, 1962;

plus

(b) £6,186, being arithmetical corrections to the calculations at (a) above;

plus

40 (c) £43,484 being the total of various detailed increases in the Kabaka's Government's favour.

Exhibits

C1

Further
Statement
of John G.
Huddle
(continued)
17th April
1964

These resulted from discussions held with the Kabaka's Government from the time of their receipt of the Treasury letter of 13th March, 1962, up to the 30th June, 1963;

plus

- (d) £251,730 being a reduction in respect of the estimated non-African graduated tax revenue from the estimate of £386,467 contained in (3) of the Summary attached to Exhibit A in this action made on the authority of the letter dated 28th December 1962 from the Minister of Finance to the Omuwanika exhibited to my earlier statement; 10

plus

- (e) £173,429, being a half-year's provision for the additional cost of the educational services transferred with effect from 1st January, 1963.

4. The result was a total payment to the Kabaka's Government, for the financial year ending on 30th June, 1963, of £1,351,899. In the following financial year, an additional payment of £27,089 was made to the Kabaka's Government, being the excess of receipts of revenues assigned to Buganda over their guaranteed minimum for the period 1st March, 1963 to 30th June, 1963. 20

5. All the above payments and adjustments were the subject of consultation with the Kabaka's Government.

6. By mid-June, 1962, in the light of adjustments already decided upon, it seemed likely that the amount payable to Buganda in the financial year beginning 1st July, 1962, would fall little short of £900,000; by mid-September it had become clear that £900,000 would be a minimum figure. 30

JOHN G. HUDDLE

17th April, 1964

IN THE PRIVY COUNCIL

No. 33 of 1964

ON APPEAL FROM THE HIGH COURT OF
UGANDA AT KAMPALA

B E T W E E N :

THE KABAKA'S GOVERNMENT
(Defendant)

Appellant

- and -

ATTORNEY GENERAL OF UGANDA
(Plaintiff)

Respondent

RECORD OF PROCEEDINGS

T. L. WILSON & CO.,
6 Westminster Palace Gardens,
London, S.W.1.
Solicitors for the Appellant.

EDWIN COE & CALDER WOODS,
61-62 Lincoln's Inn Fields,
London, W.C.2.
Solicitors for the Respondent.