



GOLD COAST COLONY.

Native Administration in the Gold Coast and its Dependencies.



Confidential Minute by His Excellency the Governor.

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NATIVE ADMINISTRATION IN THE GOLD COAST AND ITS DEPENDENCIES.

In a Minute dated the 3rd July, 1928, on native policy in the Northern Territories, the Acting Governor (Mr. T. S. W. Thomas, C.M.G., O.B.E.) wrote as follows:—

“ So far as I can ascertain, this Government is completely in the dark as regards the native administration of the Northern Territories: there seems to be no clear-cut statement of policy; we do not know what is being done and what our administration is intended to bring forth.

“ But on one point I am quite clear. The opening up of the country has begun and, having begun, it is likely to develop more and more quickly as the years go on. It is, therefore, most important that definite lines should be laid down without delay on which administrative officers can work; so that, when the time is ripe, a system of indirect rule can be introduced and the natives themselves given a share in the government of the country.

“ It is not easy to suggest what should be done; but I should have thought that there would be no good reason why Native Administrations should not be introduced there, just as they have been in both the Northern and Southern Provinces of Nigeria, in Tanganyika, and in Uganda. The tribes in the Northern Territories cannot, surely, be so wholly different from *all* the tribes in these countries that a system which is proving successful there cannot, with the necessary modifications, be equally successful here.”

Three months later the Acting Governor issued a pamphlet containing extracts from Reports on the system of Native Administrations created in Tanganyika Territory. In an introduction to this pamphlet Mr. Thomas wrote:—

“ The following papers have been printed in the hope that they will assist in the consideration of the problem how to introduce among the natives of the Gold Coast some form of native administration. They show how the system has been successfully introduced in Tanganyika Territory with its greatly varying native organisations, from the Arab of the coast to the primitive pagan up-country. A similar problem lies before us here; it has not yet been tackled, but it is quite certain that it must be tackled soon. The work cannot be done in a hurry; it will require much thought and investigation on the part of political officers; much accurate knowledge on their part of the organisations of the native tribes in the districts in which the system will be introduced.

“ There will, of course, be difficulties, but I am certain that they can be overcome; I am equally certain that they must be overcome. I suggest, therefore, that those who read these papers should consider how far the difficulties met in Tanganyika may be expected here, and how far the methods adopted in Tanganyika to overcome these difficulties would be suitable here. The native of the Gold Coast has a right to a greater share in the administration of his country, and it is our duty to find a means of giving it to him.”

2. Mr. Thomas did well to draw attention to the lack of a clearly defined policy in this all important matter of Native Administration. Very little has been written in the past on the subject as a whole (for the voluminous correspondence about the Native Jurisdiction Ordinances of the Colony and Ashanti deal, after all, only with

one phase thereof), and the existing system has no doubt been accepted by succeeding generations of administrative officers as the outcome of a settled policy, whereas to the best of my knowledge the merits or demerits of alternative policies of native administration have seldom, if ever, been discussed by the Government of the Gold Coast.

3. Let me not be misunderstood. The native policy of successive Governors has always been the protection and furtherance of the interests of the native inhabitants and eleven sub-heads of this policy were well set out by my predecessor in his "Review" of February, 1926. As regards the subject of this Minute the material sub-heads were the following:—

"(ii) To conduct the administration of the natives of the country through the proper native authorities.

"(iii) To encourage education among the Native Rulers and Oman Councils to enable them to cope successfully with the gradual advance of Western civilisation, advising and guiding them in the measures which it may be necessary to take from time to time to harmonise native institutions and law with the natural course of historical development;

"(iv) To increase the prestige of the Native Rulers and Oman Councils, encourage their initiative, and support their authority."

It must be noted, however, that while it is thus the declared policy of Government "to conduct the administration of the natives through the proper native authorities" that phrase is capable of several very different interpretations, and this ambiguity has in my experience—unintentional though I am sure it has been—always marked the native policy of the Government in the Gold Coast.

"To conduct the administration of the natives through proper native authorities" may mean nothing more than "To use the Chiefs as our mouthpieces through whom the orders of Government are issued to the people."*

On the other hand it may mean "To make the Chiefs an integral part of the machinery of Government with well-defined powers and functions recognised by Government and by law and not dependent on the views of an executive officer".* In so far as the Chiefs of the Colony and Ashanti have well-defined judicial functions, their own court-houses and their own prisons the second interpretation applies; but inasmuch as they have very few executive powers or functions they cannot be looked on as substantially other than the mouthpieces of the administrative officers, and in this sense therefore the first interpretation applies. If we really face the facts it must be admitted that our *practice* is to exercise British rule with the support of the native Chiefs rather than to maintain and support native rule. In short our system is more nearly akin to "Direct Rule" than to "Indirect Rule".

Indeed, as regards the Northern Territories the system can certainly not properly be described as any other than Direct Rule. Although it is laid down in section 15 of the Northern Territories Administration Ordinance (which came into force on 1st January, 1902) that "Native tribunals shall exercise the jurisdiction heretofore exercised by them in the same manner as such jurisdiction has been heretofore exercised", that section has practically been allowed to fall into abeyance.

There is as yet no Native Jurisdiction in the Northern Territories, and to quote Mr. Cardinal "The extent of the jurisdiction of the native courts is trivial. It covers matrimonial suits and all those little matters to which the maxim 'de minimis lex non curat' would apply. They have no jurisdiction whatsoever in criminal matters. As to the constitution of the native courts or tribunals, nothing is on record. The system of direct rule has been so intense that how a court is formed, of whom it consists, what officers are attached to it, the nature of its procedure have never been recorded or even considered."

4. Personally I range myself unhesitatingly on the side of those who believe in the principle of "Indirect" rather than "Direct" Rule. I am convinced that the character of the Gold Coast native institutions as a whole is such that it is abundantly worth while to maintain their authority. Further, I agree whole-heartedly with the view enunciated by Sir Donald Cameron, Governor of Tanganyika, that

* Memo. No. I on Native Administration in Tanganyika.

“ with all the disintegrating influences which are at work to impair the authority of the Chief over his people, that authority will be undermined and completely disappear . . . unless we take steps now to prevent its disappearance.” Our aim should be to make the native authority “—i.e. in the Gold Coast the State Council presided over by the Chief—“ a living part of the machinery of Government.” That can never be effected by regarding the Chiefs as merely the mouthpieces of Government, nor can it be effected by giving the Chiefs or State Councils only judicial functions. They—or such of them as can reasonably be trusted to exercise other functions with justice and wisdom—must be given executive functions also, that is to say they must be invested with authority to issue orders to their people and, above all, they must be provided with funds “ with which to pay the salaries of their officials and to inaugurate schemes of development,” for as Lugard says (page 230 of the Dual Mandate) no system of rule can be effective unless it enjoys some measure of financial independence.” Such funds can best be collected through the machinery of the native administration, in accordance with native law and custom and under the close supervision of the British officer. “ A Native Administration must have its Treasury, as well as its executive officers and its courts, for experience teaches that it soon becomes of little account if no funds are placed at its disposal out of which it can pay the salaries of its personnel, build its own court houses and schools, and make its own roads, etc.”

5. The arguments for “ indirect rule ” as against “ direct rule ” may, I suggest, be summarised as follows :—

- (i) It ensures the political officer being in close contact
 - (a) with the influential natives—i.e., Chiefs and their Councils whose “ adviser ” as regards their executive and fiscal functions he is by hypothesis ;
 - (b) with every class of the native population, by reason of his responsibility for the “ assessment ” of the direct levy which is to provide the native authority with its revenue.
- (ii) It upholds the authority of the native rulers by giving them threefold powers :—
 1. Judicial.
 2. Fiscal.
 3. Executive.
- (iii) It creates a barrier against *undue* “ Westernisation ” of native institutions. Where the native authority becomes a living part of the machinery of Government “ the cry of the agitator for a large share in the administration of the country on Western lines loses any weight that it might otherwise possess.” On the other hand this does not mean a denial of progress and development : the political officer and the educated members of the State Councils have every opportunity for advice and guidance.
- (iv) It provides a solution for the problem of local Government in growing centres (other than those where European interests are predominant) where much “ development ” is clamoured for at the expense, at present, of the general revenue. The Government of the Gold Coast is finding it increasingly difficult to meet the demands made upon it for the satisfaction of local needs, and as a matter of principle it is objectionable that purely local expenditure should be a charge on the revenue of the central Government. Local needs in Nigeria and elsewhere are satisfied by the expenditure by *Native Administrations* (under due guidance) of funds collected from the localities concerned, and there seems no reason why a similar system should not be gradually established in the Gold Coast. Indeed, with the tendency of the Colony’s recurrent expenditure to overtake the revenue it seems probable that in a short time no Government funds will be available for purely parochial purposes.

6. Reference has been made above to the desirability of giving native authorities the power to issue orders. It is perhaps in this respect that the most striking difference emerges between the Gold Coast policy and the Tanganyika policy (since 1926).

The only specific executive powers statutorily possessed by Gold Coast Chiefs are those prescribed in section 117 of the Native Administration Ordinance (section 74 of the Ashanti Native Jurisdiction Ordinance), viz. : those of a " conservator of the peace." Compare this with the extensive list of subjects concerning which a Tanganyika Native Authority may issue orders under statutory authority as apart from native customary law—see section 8 of the Tanganyika Native Authority Ordinance, on pages 18 and 19 of the print circulated by Mr. Thomas. Presumably, Gold Coast Chiefs could in effect make such orders under statutory authority by means of " bye-laws ", but that is not only a cumbrous method, but the bye-laws have to be approved by the Governor-in-Council before becoming valid. The Tanganyika Native Authority has complete power to " issue orders to be obeyed by natives within the area " subject only to the power of the Administrative Officer to revoke such orders " if he considers that they should not have been issued or should not be enforced." The Administrative Officer can himself direct the Native Authority to issue an order but it is only if the Authority " refuses or neglects " to comply with such direction that the Administrative Officer can himself issue the order.

It is clear, therefore, that in Tanganyika the statutory authority of the Native Administration is a very real thing. The Native Administration is an " integral part " of the Government of the country.

7. As I have indicated above (paragraph 4) such powers could not safely be entrusted to by any means all our Paramount Chiefs or their State Councils. No such general delegation is in vogue in Nigeria or Tanganyika, and it is not contemplated here. Moreover, the degree of delegation will also vary. As Sir Donald Cameron puts it, " It will be seen that what the Governor does is to establish by a formal instrument under the law certain offices to be executive institutions for a particular area, institutions to which in accordance with the policy of indirect rule, is entrusted the administration of the people whom they represent, subject to certain limitations or obligations, just as under closely related legislation he establishes, in the form of Native Courts, complementary judicial institutions. The Ordinance makes provision for the limitation in particular instances of the powers which may be exercised by virtue of the establishment of any office to be a Native Authority, for it may be found that there are native authorities to whom in the beginning it would be unwise to entrust full powers."

It must be clearly understood that under Indirect Rule the Chiefs or Native Authorities are not *independent* rulers—they are the delegates of the Governor (though they are more than merely his mouthpieces). The Government reserves to itself the right to impose taxation, to make laws, to control the exercise by the native authority of subsidiary legislative powers, etc. Moreover, the disposal of the annual revenue of the Native Administration and all its important executive acts, though emanating from itself, are subject to the guidance and advice of the Political Officer.

8. During the past year, certain action has been taken with the object of developing native administration in the Gold Coast. Thus in the Colony the Secretary for Native Affairs has held a conference with the Provincial Members of the Legislative Council about the creation of stool (or " state ") Treasuries in the Colony, and an Ordinance for their legislation is in contemplation. In Ashanti, the Stool Treasury system has been extended to several new divisions. In the Northern Territories, the Chief Commissioner has been instructed to draw up a Native Jurisdiction Ordinance.

Progress is slow, but there can and should be no hurry in such a vital matter. The object of this Minute is primarily to acquaint Political Officers with the fact that my policy is definitely to maintain and support native rule, and to that end to prepare the way for a more extensive delegation of power and authority to native rulers under due safeguards. In other words, the development of " Indirect Rule " is the policy of the Gold Coast Government.

9. Conditions, of course, vary enormously in the Colony, Ashanti and the Northern Territories. The differences have been well described in the following extract from a minute by the Secretary for Native Affairs:—

“ In the Colony proper it is now in some cases (e.g., the States of Accra, Oguaa and Sekondi) almost impossible to visualize a time when full indirect rule could still be established. There are other states (e.g., Nsein, Prampram, Hemang, etc.) where the paucity of population is a serious obstacle, and there are the remainder where the problem will present difficulties peculiar to themselves and such as are not found in respect of the Head Chiefs' Divisions of Ashanti. These difficulties are due to the long period which has elapsed since these States were governed solely by their native authorities and they are accentuated by what I may call the era of sophistication which has set in through the introduction and the spread of education on European lines. This latter has aggrandized the commoner at the expense of the influence of the local Chiefs and Elders, it has emphasized the power of worldly standards of influence (i.e., money) and it has encouraged both a democratic outlook and a restiveness which is the negation of native ideas of Government. The introduction of indirect rule in the Colony is therefore likely to prove harder than elsewhere and it will take longer to become effective. In Ashanti matters are quite different. There the native authorities exercise a power and an influence which has been but little diminished by extraneous influences. It is true that the Divisions are often not those which existed in the days of the Ashanti Kingdom but the essential fact—the unchallenged supremacy of the native rulers—remains unimpaired. Indirect Rule can in my opinion be rapidly introduced there.

“ The Northern Territories has its own problems but they are not insoluble. The chief difficulty there is, ironically enough, the lack of education. There is no language common to the country except English and, worse still, none of the local languages has been transliterated. Record books of account and of tribunals will therefore have to be kept in a foreign language—probably English—and by foreign clerks.”

I wish to assure Political Officers in the three Administrations, and especially those in the Colony and the Northern Territories, that the special difficulties which confront them are fully appreciated. They will, however, I hope, agree that save perhaps in the three main coast towns there are no local peculiarities which constitute an insuperable obstacle to the eventual achievement of the policy of Indirect Rule.

10. The crucial question will be how to provide the native authorities with funds. Lord Lugard expressed the opinion that “ without a tax there can be no Treasury and without a Treasury no eventual measure of self rule.” The Gold Coast Secretary for Native Affairs puts it thus:—

“ Money is the main prop of a State as well as of its government. Without it the State will collapse, but with it the State can command respect and authority.”

The foundation therefore of any stable system of Indirect Rule must be the duly regulated Stool Treasury, and the development of the system will largely depend on the regularity and extent to which the revenues of those Treasuries can be maintained. Our experience in Ashanti has shown that it is quite possible to *initiate* Stool Treasuries without prescribing any general tax or levy, but such a source of revenue is, of course, the backbone of the native authorities in Nigeria, Tanganyika and Uganda.

11. Direct taxation is traditionally regarded with disfavour in the Gold Coast. This is probably due to a suspicion—when Chiefs impose it—that much of the money will be improperly retained, and to a feeling—when Government (e.g., the Town Councils) imposes it—that Government, which came to the country after the natives had occupied it, had no right to exact it. If, however, such taxation relieved the people from a multitude of minor levies and imposts, and if its proceeds (or at least half its proceeds) were handed over to the native authorities for the benefit of the localities in which the tax was raised there would presumably be less

objection. The difficulty will be to ascertain accurately what tribute and service are now rendered, and to overcome the probable reluctance of the Chiefs, at first at any rate, to the commutation of such tribute and service. But already a few of the more enlightened Chiefs are offering to contribute money for local development such as minor water supplies, drainage schemes, electric light, infant welfare centres, schools, sanitation gangs, etc., and I believe that if the idea of native authorities with real executive powers were carefully explained to the Provincial Councils they would recognize the force of the corollary, i.e., the commutation of tribute and service in order to furnish themselves with the necessary funds.

12. In so far as our Native Administration Ordinance deals with the *judicial* functions of native authorities and confers on them disciplinary powers, it is probably as far in advance of similar legislation elsewhere as in other respects it lags behind such legislation. Before we can usefully approach the Chiefs with proposals for an extension of the scope of the Ordinance, so as to make "Indirect Rule" a reality, it will be necessary for a senior officer of Government to visit Nigeria and study the system in vogue there at first hand. This I hope to arrange in the near future.

13. I annex an extract from Chapter XXXIII of Rattray's "Ashanti Law and Constitution" where he advocates the imposition of a tax to be paid to the stools in lieu of the services of the past. He bases his proposal on the fact that "the most onerous services in return for which land was held"—e.g., the obligation to fight when called upon by the overlord and to obey his summons 'by day or by night'—"no longer exist." A tax in lieu of those services "would emphasize and maintain the authority of the Stool which would thus continue to be regarded as a trustee for all land, and the conception of its nationalization would be maintained."

Such a tax differs from a tax in commutation of still existing "tribute and service," but Rattray contends that his "suggestions are such that no advocate of 'native constitutions, institutions and 'customs' could deny that they are in conformity with them."

A. R. SLATER,
Governor.

16th December, 1929.

Extract from Chapter XXXIII of "Ashanti Law and Constitution"

by Capt. R. S. RATTRAY.

* * *

The West African, in these parts, I am thankful beyond measure to say, is not confronted with any "dual policy" such as is found on the other side of the continent, nevertheless although his land is secure from European exploitation, the position from other standpoints is not satisfactory, and unless steps are taken soon, we shall find Stools and all the wonderful organization they represent broken and at least metaphorically bankrupt because they will virtually have lost that in which all their "power lay" and that upon which the social organization of this people rests. Land was apportioned lavishly in the past, so much so that nowadays many Stools do not possess any unallocated domains. In olden times this mattered little; a Stool's wealth ultimately lay in the wealth of its subjects; they enjoyed the Stool lands because the Stool wished for and benefited by their services and prosperity. What is the position to-day? The most onerous services, in return for which land was held, no longer exist. The people, under our beneficent rule, have thus found themselves relieved of most of the well-recognised obligations to their Chiefs. Stool

revenues have correspondingly diminished, and as a result, respect, discipline, and obedience are less readily rendered, and more difficult to exact. Side by side with this is the great increase in the value of all land. We have, thus, landowners holding land, freed from most of the services incumbent upon them—within even their own memory—and now, moreover, in possession of an asset which has assumed a new value. I believe that if the West African were to know that we wish them once again to become a nation, proud of their race, of their traditions, and of their past, and to that end that we wish to help them I believe that they would willingly undertake their obligation to finance their Stools by some form of taxation. They would do this the more readily if they knew that these contributions would be subject to an audit and strict control, and that such an *etuo* (tax) representing only a fraction of their past obligations, was to help to restore and to preserve their nationality.

