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SUBJECT: New Constitution Contains Provision for Acting Governor General Contradictory to the Anglo-Egyptian Pact

A contradiction exists regarding the provision for an Acting Governor General between the new Self-Government Statute, commonly called the Constitution, and the Anglo-Egyptian Pact. According to an "Agreed Minute Concerning the Exercise of the Governor General's Functions During Short Absences from the Sudan," an attachment to the Anglo-Egyptian Pact on the Sudan:

The two Contracting Governments agree that during short absences from the Sudan the Governor General shall be considered to continue in the exercise of his official functions.

The clear implication of the foregoing, plus the absence of any other provision in the pact, is that the Governor General is not entitled to appoint a relief to officiate for him. However in the new Statute recently implemented by the Governor General (Khartoum 100, March 24, 1953) there is a sleeping clause which allows him to appoint someone to substitute for him. In Chapter I under the heading "Interpretation" the following is given opposite the term "Governor General": "includes the person from time to time appointed by the Governor General to perform the functions of his office."

This contradiction was recently brought to the attention of the public by the Sudan's newest Arabic daily Anba el Sudan, the organ of the Nationalist Party on April 19, 1953. The subject was discussed by the Executive Council according to Anba el Sudan which also claimed that there would be some consultation with the major political parties to obtain agreement in resolving this contradiction. We have been authoritatively informed that the Executive Council has not discussed this matter. According to Anba el Sudan the Egyptian Government is strongly opposed to the provision in the statute. No other paper has given any publicity to this contradiction.

The office of the Governor General would pose a real problem if it should prove necessary to appoint another one. Legal authorities in the Sudan claim that the precise steps to accomplish this are by no means clear. Presumably resort would have to be made to the long-standing Condominium agreement on this matter, but the difficulty of securing agreement between the British and Egyptian Government might constitute a major obstacle. Because of this obscurity in the

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of appointing a Governor General to succeed the present incumbent--a contingency that may not arise if the Sudan becomes independent or chooses unity with Egypt during the next three years and the present incumbent remains in his office--this contradiction may cause political difficulties.

W. H. T. LUCE, Advisor on Constitutional and External Affairs, told the reporting officer in confidence that this subject was a source of concern to the British Government. The Egyptians had suggested various means of substituting for the Governor General in his absence when this matter came up during the recent pact talks in Cairo. According to Luce, the Egyptians would do anything that meant having a non-British Governor General. They suggested that the senior Sudanese member of the Governor General's Commission or the Pakistani Chairman should become Acting Governor General if the occasion should arise, but the British rejected these suggestions. As matters now stand there is no clear provision for the appointment of a successor to the Governor General. Although the Sudan Government does not want the information known, the Governor General has signed a paper appointing the senior British civil servant to the post of Governor General in the event of his death. This paper is kept in the Palace safe in Khartoum.

Sir Robert HOWE, the Governor General, is scheduled to discuss this whole situation with the Foreign Office when he returns to London. According to the present understanding between the British and the Egyptians, if the Governor General is absent from the Sudan for less than a month he is considered to be functioning as the Governor General. If he stays away longer than a month he has to appoint an acting Governor General, although the Egyptians claim he has no legal right to do so. Since the Governor General normally is absent from the Sudan for a minimum of five months every year, because of the adverse climatic conditions here, according to Luce, some regularization of this problem must be attempted. Sir Robert Howe intends to tell the Foreign Office that he considers it essential that steps be taken to recognize his right to appoint an acting Governor General and the British Government's right to appoint his successor if such a measure should prove necessary.

cc: London
Cairo

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