

1955

Kenya

No. 38032

SUBJECT: C O 533/455

Legislative Council

Previous

25067/36

Subsequent

1937
S.F.I. (minutes)

68.
Legislative Council
Stat. Bill of Ordinance

1. Governor Bygone 38 Conf. 18 March '35
Submits report of Select Committee of the Leg Council appointed to examine the provisions of the Leg Council Ordinance together with draft legislation as the result of their deliberations. Furnishes explanation of Bill & seeks approval of its introduction into the Leg. Council

The new Bill is to provide for the nomination and election of members ⁶ of the Legislative Council, as the existing legislation has been found to be unsatisfactory in many respects. The Bill has been prepared by a Select Committee of the Legislative Council composed of the Attorney General, the Solicitor General, the Commissioner of Mines and five Elected Members, two of whom are Indians.

The Governor invites attention to the following points -

Indian Electoral Area.

At present the area is the whole of the Colony and Protectorate. Five Indian Elected Members are returned to Council. It can be appreciated that the organising of an election among the Indian voters scattered over this large area presents considerable difficulty. The proposal is then that the Colony and Protectorate should be divided into three Indian electoral areas, namely East, Central and West, the two first named returning two Members, and the last named one Member. The number of Indian Members to be returned remains the same. The Governor supports the recommendation.

? Approve.

Life of the Legislative Council.

Article XXXI of the Royal Instructions says that "the Governor shall dissolve the Legislative Council at the expiration of three years from the date of the last preceding General Election of Elected Members of

✓ A.

feelings as regards the minimum proportion of votes, and if the majority of the Elected Members wish the fraction to be reduced from 1/6th to 1/8th, he would propose the necessary amendment of the Bill. This seems unobjectionable.

Mr. Pandya and Mr. Mangat dissent from the Select Committee on the following points:-

Rule 11, (paragraph 29 of the Committee's report) they think that a scheme should be devised whereby the polling in Indian electoral areas could be done on one day and not three days as envisaged by the Committee. There seems no reason, however, to alter the text of Rule 11 in this connection.

Mr. Pandya complains that there is no specific provision in the legislation, rules or in the recommendations of the Report that the present Indian Register of Voters should be scrapped and a new Register for each electoral area prepared. Obviously there is no need to provide for this in the legislation, but we might ask the O.A.G. whether, in view of the introduction of new Indian electoral areas, it is proposed that a new Register of Indian voters should be prepared.

The remainder of the amendments to the existing legislation proposed by the Select Committee do not appear to call for comment.

? Subject to legal observations, the introduction of the Bill may be approved, and the *Finance O.A.G.* *confirmed of the decisions on A.B.T.C.*

C. J. Prosser with
24/4/35

L. B. P. Smith
23/4

Clause 12 5-5(4) is ambiguous. Does "such contract" mean "any contract with a Govt. Dept. for which Govt.

There is nothing in Mr. Pandya's complaint and I should not trouble the O.A.G. The new registers will be made as of course in the next annual revision (W.D.)

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This is a very important matter and will involve a further amendment of the Royal Instructions ^{were} which/only revised as recently as March last year. The whole of the Select Committee recommended that the period of the Council should be increased from three years to four and that the life of the present Council should be so extended. The reason for the recommendation is the expense and trouble of having tri-annual elections and, since it is the wish of the Committee and, according to the Acting Governor, would be supported almost unanimously by the public, there seems no reason for objecting to it. The awkward question is, of course, the prolongation of the life of the present Council. There are, I think, precedents both ways. In this country ~~it is usual~~ when there is any sweeping alteration of the franchise or sweeping alteration of constituencies, it has been usual for Parliament to dissolve and go to the country on the new ^{basis} as soon as is convenient. On the other hand, there are also good constitutional precedents for a Parliament prolonging its ^{own} life. In the circumstances of Kenya, and specially bearing in mind the fact that the Legislative Council is not a Parliament, I think there would be full justification for agreeing to its prolongation as suggested and amending the Royal Instructions to produce the desired effect. In that case Sections 14 and 16 of the bill will require amendment as Mr. Dale points out.

India Bill

Life of the
Yes. The Kenya
Committee has been
extended, for
ambulatory reasons,
in the past.


With regard to the deposit to be paid by candidates and its forfeiture in the event of failure to obtain a definite proportion of votes - the proportion in this country is 1/8th, and I think that since we have that rule in this country we should

words

should suggest the adoption of the same rule in Kenya. It won't make much difference any way and the deposit of £50 should be enough to discourage hopeless candidates. An important proposal is that the Indian franchise should not be divided into three districts. There is a great deal to be said for the view taken by the Committee that ^{one} the area covering the whole colony is too large and the change has the support of the Indian members. It may, therefore, I think, be adopted, but it is probably a sort of ^{move away from} ~~remove~~ ~~away~~ ~~from~~ communal representation. At present, with the whole colony as one constituency the Indian elected members are elected on a community franchise, but when the area is divided into three, it may tend to get down to territorial divisions of ^{smaller} ~~similar~~ size in the course of time and then there will be a further argument in favour of the ^{"common roll"} ~~community~~ rule. The argument ^{not} will, however, be very strong and I do not think we need bother about it.

The Indian members' dissent is not of very great importance. They object to the indefinite period of polling allowed for the Indian vote and suggest that polling might be done in one day. At the present time 28 days are allowed for polling in the Indian elections, and the report of the majority shows that it will not be possible for ^{elections} ~~them~~ to take place on one day owing to the number of voters (and, of course, the size of the areas); ^{it} ~~and~~ suggests that at least three days would be required, the actual number to be fixed by the Governor and the Returning Officer.

The

It will be
wait to
meet 

The Indian dissentients say that candidates have to incur much expense and suffer the inconvenience and anxieties of a lengthy polling, and say that the Indian members desire one day polling. I do not think this should be accepted because the result will inevitably be to load the dice in favour of the candidates who win the approval of the more thickly populated places. Even with three Indian electoral areas there will not be time for the Indian voter living any distance from the place of poll to record his vote, and I think that the recommendation of the majority should be accepted on this point. The despatch sent in reply, however, should refer to the Indian members' dissent, say that the S. of S. thinks that one day would not be sufficient to allow satisfactory polling in three large constituencies and that he accordingly thinks it best to leave the matter open as suggested by the majority of the Committee. We should also point out that the ^{new} Blue Register will have to be produced on the next annual revision so that there is no necessity for any specific legal provision for that purpose.

* See para. 24 of the report.

We should also adopt the detailed amendments suggested by Mr. Dale. With reference to Section 26(1)(b) of the draft, the point is that they have left out the words "corruptly" and "for the purpose of corruptly influencing". The result is that they have produced a perfectly general proposition against anybody providing meat, drink, or provision for anybody else in any circumstances whatever. This is hardly intended. ? send a despatch approving the proposals, accept the four-year life of the Council, suggesting that a deposit should be forfeited on failure to obtain 1/8th of the votes and agreeing to the proposed division of the colony into three

✓

slc

three Indian areas. At the same time refer to Mr. Pandya's ^{all} consent as suggested above and ask to be informed when the bill is likely to be introduced into Council in order that the S. of S. may proceed to obtain the necessary amendment of the Royal Instructions.

J. E. O. Flood
1-5-35

I agree with Mr Flood.

W.E.S. 2-5-35

J.M.
2/5

I agree. It wd. be worse
unreasonable to
follow the $\frac{1}{2}$ precedent
of this country

P.V.L.
16/5

Sd. tel. NO 92 30 April, 1935
Requires tel reply to NO 1. as soon as possible
DESTROYED UNDER STATUTE

Recive

3. To Gov. Tel No. 125 - Paid - 17/5/35

Proofs, h.w. which have been
checked
now submitted to H.M.
in duplicate as in draft
herewith

Almire

1. 6. 35.

Judgeon.

1/6.

5 To Printing Office - 6ms

(resp. assl. instructions)

14/6. 3/7
1/6/35

6. A/B. Secretary 3rd Conf. (Annual). 1st June '35.

Draw attention to a printers error in Clause 26(a)(b)

DEFERRED UNDER STATUTE
of the Bill.

This makes clear the intention
of Section 26 (a)(b). We
commented on the discrepancy,
see para 7 of No 4.

If the date agrees? This
may be put by

C.A. [Signature]

11/6/35

This can be put by; but pp shd. be b.v. in
a week, if we haven't by then had copies
of the D-in.C.

[Signature]

12/6 at

Notes 1/6

[Signature]

14 Col. Sec 3rd 11.3.37

States that Ordinance No. 26 of 1935 was brought into effect as from 15th January, 1937

Put by
(The next general election will be in 1938)

The last was in 1934

Mr Wilson loses

Jan. 1.4/37

C. A. Rosewell - 8/4/37

J. J. Bacon 8/4 at once

~~Handwritten mark~~



THE SECRETARIAT,
NAIROBI,
KENYA.

11th March, 1937.

WHEN REPLYING
PLEASE QUOTE
NO. OF LEG. CO. 25/7/1/68.
AND DATE

RECEIVED
- 7 APR 1937
REGY

The Colonial Secretary of the Colony and Protectorate of Kenya presents his compliments to the Under Secretary of State for the Colonies, and with reference to the second paragraph of Mr. Malcolm MacDonald's despatch No. 773 of the 26th September, 1935, has the honour to inform him that Ordinance No. XXVI of 1935 of the Legislature of Kenya was brought into effect by proclamation as from the first day of January, 1937.

13

R.M.B.B.

9
14.

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C. O.

admission

21/9/35

Mr. Manning

23/9/35 P.S.

Hand (14)

13

Mr.

Sir C. Parkinson.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Permi. U.S. of S.

Parly. U.S. of S.

Secretary of State.

| |
|-------------|
| C. D. |
| R 23SEP |
| D <i>NS</i> |

26 September 1935.

Sir,

I have etc. to ack. the receipt of Mr. Wade's despatch No. 454 of the 29th of August and to inform you that His Majesty will not be advised to exercise his power of disallowance in respect of Ordinance, No. ~~26~~ ^{XXVI} of 1935, of the Legislature of Kenya, entitled "An Ordinance to provide for the Nomination and Election of Member to the Legislative Council of the Colony and Protectorate of Kenya.

2. I have to request that

you will ^{*notify*} inform me of the date appointed by proclamation ^{*from*} ~~the coming into effect of this~~ which the Ordinance will come into

~~effect.~~
Effect.

I have

DRAFT.

Kenya.
No. 773.
Governor.

(12)

FURTHER ACTION

KENYA

No. 454



12
GOVERNMENT HOUSE,
NAIROBI,
KENYA.

RECEIVED

16 SEP 1955

C. O. REGY

29 AUGUST, 1955.

Sir,

I have the honour to forward two authenticated

Ordinance.

and twelve printed copies of Ordinance No. XXVI of 1955

entitled "An Ordinance to provide for the Nomination and

Election of Members to the Legislative Council of the

Legal Report. Colony and Protectorate of Kenya" together with a Legal

Report thereon by the Attorney General.

2. This Ordinance passed its third reading in

the Legislative Council on the 3rd day of August, 1955,

and the Acting Governor assented to it in His Majesty's

name on the 23rd of August, 1955.

I have the honour to be,

Sir,

Your most obedient,

humble servant,

Malcolm Macdonald

ACTING GOVERNOR'S DEPUTY.

THE RIGHT HONOURABLE

MALCOLM MACDONALD, P.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S.W.1.

LEGAL REPORT

THE LEGISLATIVE COUNCIL BILL, 1935

(4) This Bill was, subject to certain amendments, recently approved by the Secretary of State.

Two of the amendments suggested by the Secretary of State have not been adopted. The Select Committee which considered the Bill was of the opinion that Clause 12(4) as drafted disclosed no ambiguity, and that Clause 26(1) as drafted was preferable to the wording of section 23(1) of Chapter 24. The other amendments suggested by the Secretary of State have been incorporated in the Bill.

A number of other amendments were made in the course of the Bill's passage through Legislative Council, but these call for no specific comment.

A copy of the Bill, as submitted to the Secretary of State and showing in red ink all the amendments made thereto, together with a Comparative Table, is attached for transmission to the Secretary of State.

In my opinion, His Excellency the Governor may properly assent to this Bill in the name and on behalf of His Majesty.

Nairobi,

12th August, 1935.

T. D. H. ...
SOLICITOR GENERAL
for ATTORNEY GENERAL

COMPARATIVE TABLE

THE LEGISLATIVE COUNCIL BILL, 1935

| Clause of the Bill. | Corresponding section of the Legislative Council Ordinance (Chapter 24) as amended. | Remarks. |
|---------------------|---|-------------|
| 1. | Short title and commencement. | |
| 2. | 2. | |
| 3. | 3. | |
| 4. | 4. | |
| 5. | 5. | |
| 6. | 7. | |
| 7. | 6. | |
| 8. | 8. | |
| 9. | 9. | |
| 10. | 10. | |
| 11. | 11A. | |
| 12. | 12. | |
| 13. | 13. | |
| 14. | 14. | |
| 15. | 15. | |
| 16. | 15A. | |
| 17. | 16. | |
| 18. | 17. | |
| 19. | 18. | |
| 20. | 19. | |
| 21. | 19A. | |
| 22. | 20 | (b) is new. |
| 23. | 21. | |
| 24. | | |
| 25. | 22. | |
| 26. | 23. | |
| 27. | 24. | |
| 28. | 25. | |

| Clause of the Bill. | Corresponding section of the Legislative Council Ordinance (Chapter 24) as amended. | Remarks. |
|---------------------|---|----------------------|
| 29. | 26. | |
| 30. | 27. | |
| 31. | 28. | |
| 32. | 29. | |
| 33. | 30. | |
| 34. | | New. |
| Schedule I Part A | Schedule I Part A. | |
| " Part B | | New. |
| " Part C | Part B. | |
| " II | Schedule II | |
| " Rule 1 | Rule 1. | |
| " " 2 | " 2. | sub-rule (2) is new. |
| " " 3 | " 4. | |
| " " 4 | " 5. | |
| " " 5 | " 6. | |
| " " 6 | " 7. | |
| " " 7 | " 8. | |
| " " 8 | " 9. | |
| " " 9 | " 10. | |
| " Form A | Form A. | |
| " Form B | | New. |
| " Form C | Form B. | |
| " III | Schedule III | |
| " Rule 1 | Rule 1. | |
| " Rule 2 | " 2,3, and 4. | |
| " Rule 3 | " 5 | |
| " Rule 4 | " 6 | |
| " Rule 5 | " 7 | |
| " Rule 6 | " 8 | |
| " Rule 7 | " 9 | |
| " Rule 8 | " 10 | |
| " Rule 9 | " 11 | |
| " Rule 10 | " 12 | |

| Clause of the Bill. | Corresponding section of the Legislative Council Ordinance (Chapter 24) as amended. | Remarks. |
|---------------------|---|----------|
|---------------------|---|----------|

Schedule III

Rule 11

Rule 15

- | | |
|------|-------|
| " 12 | " 14 |
| " 13 | " 15 |
| " 14 | " 15A |
| " 15 | " 16 |
| " 16 | " 17 |
| " 17 | " 18 |
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| " 35 | " |
| " 36 | " 35 |

New.

New.

Form A

Form B

Form B

Form C

Form C

New

Schedule IV

Rule 1

The Voting by Post Rules, 1934, Rule 2.

" 2

3

| Clause of the Bill. | Corresponding section of the Legislative Council Ordinance (Chapter 24) as amended. | Remarks |
|---------------------|---|---------|
|---------------------|---|---------|

| | | |
|--------------------|---|----------|
| Schedule IV Rule 3 | The Voting by Post Rules, 1934, Rule 4. | New. |
| " " 4 | " " | Rule 5. |
| " " 5 | " " | Rule 6. |
| " " 6 | " " | Rule 7. |
| " " 7 | " " | Rule 8. |
| " " 8 | " " | Rule 9. |
| " " 9 | " " | Rule 10. |
| " " 10 | " " | Rule 12: |
| " " 11 | " " | |

COPY
OF
THE LEGISLATIVE COUNCIL BILL, 1935, AS
SUBMITTED TO THE SECRETARY OF STATE
IN MARCH 1935 SHOWING IN RED INK
THE AMENDMENTS MADE DURING ITS
PASSAGE THROUGH THE
LEGISLATIVE COUNCIL.

COLONY AND PROTECTORATE OF KENYA



A BILL TO PROVIDE FOR THE NOMINATION
AND ELECTION OF MEMBERS TO THE
LEGISLATIVE COUNCIL OF THE COLONY
AND PROTECTORATE OF KENYA

1559—20c. A.G.—14-1-35

PRINTED BY THE GOVERNMENT PRINTER, NAIROBI

...of the Colony of Kenya, with the advice and consent of the Legislative Council thereof...

A Bill to provide for the Nomination and Election of Members to the Legislative Council of the Colony and Protectorate of Kenya.

BE IT ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof:—

1. This Ordinance may be cited as the Legislative Council Ordinance, 1984 and shall come into force on such date as the Governor may, by proclamation, appoint.

Short title and Commencement.

2. In this Ordinance, unless the contrary intention appears—

Interpretation.

"British subject" includes persons who have been naturalized under any Imperial statute or under any enactment of a British possession, as well as the natural-born subjects of His Majesty;

"register" means the register, prepared in accordance with the provisions of this Ordinance, of the persons entitled to vote at the election of a member to represent any of the electoral areas referred to in section 3 of this Ordinance;

"member" means a member of the Legislative Council.

3. Seventeen members shall be elected to the Legislative Council in accordance with the provisions of this Ordinance to represent the following electoral areas:—

Representation
electorates.

- (1) One European member for each of the electoral areas described in Part A of Schedule I;
- (2) Five Indian members to represent the interests of the Indian community for the electoral areas described in Part B of Schedule I in the manner contained therein.
- (3) One Arab member to represent the interests of the Arab community for the electoral area described in Part C of Schedule I.

Registering officers.

4. The Governor shall appoint for each electoral area one or more registering officers to perform the duties of registering officers under the Rules contained in Schedule II to this Ordinance.

Revising officer.

5. The Governor shall appoint a revising officer to perform the duties of revising officer under the Rules contained in Schedule II to this Ordinance.

Returning officer.

6. The Governor shall appoint a returning officer for each electoral area to perform the duties of returning officer under the Rules contained in Schedule III to this Ordinance.

Registers of voters.

7. For each electoral area a separate register of the persons entitled to vote in such area for the election of a member or members, as the case may be, shall be prepared, published and revised in the manner prescribed by the Rules contained in Schedule II and all amendments thereof.

Registers to be conclusive evidence.

8. The registers of voters for the time being in operation shall be conclusive evidence for the purpose of determining whether a person is or is not entitled to vote in any electoral area for the election of a member to represent such area.

Disqualification of voters.

9. No person shall be entitled to have his name on any register of voters if such person—

- (1) (a) is not a British subject of European origin or descent;
- (b) is not a British subject of Indian origin or descent, or is not an Indian under the suzerainty or protection of His Majesty; or
- (c) is not a male Arab, whether a British subject or under the protection or suzerainty of His Majesty, able to write Arabic or Swahili in Arabic characters;
- (2) has not attained the age of twenty-one years;
- (3) is, in the opinion of a competent court, of unsound mind;
- (4) has been convicted of a criminal offence and has been sentenced to a term of imprisonment for a term of twelve months or more and has not received a pardon: Provided that such disqualification shall cease two years after the date of the expiration of the sentence;
- (5) has, since the publication of the last revised register of voters, received relief from Government funds or from the funds of any local authority;

(6) has been declared bankrupt or insolvent in a competent court in the Colony or has received his discharge;

(7) is suffering from any disqualification or disability for the time being imposed by any enactment for the time being in force;

(8) has not ordinarily resided in the electoral area for one period of twelve consecutive months immediately preceding the date of his application to have his name entered in the register;

(9) has not resided in the electoral area for one period of twelve consecutive months immediately preceding the date of his application to have his name entered in the register;

(10) No person shall be entitled to vote in any electoral area in or to vote in more than one electoral area in any one election.

11. Any person, not otherwise disqualified by the provisions of this Ordinance, shall be entitled to have his name entered in the register of voters for one of the electoral areas described in Schedule I to this Ordinance.

(a) If a British subject of European origin or descent, whether a British subject or otherwise, has his name entered in the register of voters for one of the electoral areas described in Schedule I to this Ordinance.

(b) If a British subject of Indian origin or descent, whether a British subject or otherwise, has his name entered in the register of voters for one of the electoral areas described in Schedule I to this Ordinance.

(c) If a male Arab, whether a British subject or otherwise, has his name entered in the register of voters for one of the electoral areas described in Schedule I to this Ordinance.

(d) If a male Arab, whether a British subject or otherwise, has his name entered in the register of voters for one of the electoral areas described in Schedule I to this Ordinance.

(e) If a male Arab, whether a British subject or otherwise, has his name entered in the register of voters for one of the electoral areas described in Schedule I to this Ordinance.

(f) If a male Arab, whether a British subject or otherwise, has his name entered in the register of voters for one of the electoral areas described in Schedule I to this Ordinance.

(g) If a male Arab, whether a British subject or otherwise, has his name entered in the register of voters for one of the electoral areas described in Schedule I to this Ordinance.

(h) If a male Arab, whether a British subject or otherwise, has his name entered in the register of voters for one of the electoral areas described in Schedule I to this Ordinance.

12. (1) Any person who is qualified to be registered as a voter shall, subject to the provisions of this Ordinance and sub-section (2) of this section, be eligible for election as a member for any electoral area if such person—

(a) has not ordinarily resided in the electoral area for one period of two years before the date of his candidature;

(b) is in the permanent employment of the Government or is serving the Government;

(6) has been declared bankrupt or insolvent by a competent court in the Colony or elsewhere and has not received his discharge;

(7) is suffering from any disqualification provided by any enactment for the time being in force;

(8) has not ordinarily resided in the Colony for at least one period of twelve consecutive months prior to the date of his application to have his name entered on the register;

(9) has not resided in the electoral area in which the application to have his name entered on the register is made for a period of not less than three months.

10. No person shall be entitled to be registered as a voter in, or to vote in, more than one electoral area.

Voters to be registered once.

11. Any person, not otherwise disqualified under the provisions of this Ordinance, shall be entitled:—

Qualification for registration.

(a) If a British subject of European origin or descent, to have his name entered in the register of voters for one of the electoral areas described in Part A of Schedule I to this Ordinance.

(b) If a British subject of Indian origin or descent, or an Indian under the suzerainty or protection of His Majesty, to have his name entered in the register of voters for one of the electoral areas described in Part B of Schedule I to this Ordinance.

(c) If a male Arab, whether a British subject or under the protection or suzerainty of His Majesty, to have his name entered in the register of voters for the electoral area described in Part C of Schedule I to this Ordinance.

12. (1) Any person who is qualified to be registered and is registered as a voter shall, subject to the provisions of section 3 of this Ordinance and sub-section (2) of this section, be eligible for election as a member for any electoral area.

Disqualification of candidates.

(2) A person shall be disqualified for election as a member to represent any electoral area if such person—

(a) has not ordinarily resided in the Colony for at least one period of two years before being nominated as a candidate;

(b) is in the permanent employment of the Government or is serving the Government for a term of years;

14. Subject always to the power of the Governor to dissolve the Legislative Council at any time by Proclamation, the Council shall be dissolved on the expiration of a period of ~~three~~ years from the date of each general election and a general election shall thereafter be held on the first convenient date after such dissolution of the Council. For the purposes of this Ordinance the date of a general election shall be the date of the nomination day referred to in section 15 of this Ordinance.

Dissolution and general election.

15. As soon as may be after the dissolution of each Legislative Council the Governor shall, by notice in the Gazette, appoint a convenient day, to be known as nomination day, which shall be not less than twenty-one days after the publication of such notice. In such notice the Governor shall further appoint a place in each of the electoral areas referred to in section 3 of this Ordinance for the nomination of candidates for that electoral area.

Nomination day.

16. A member elected at a general election shall hold his seat, subject to the provisions of this Ordinance, for a period of ~~three~~ years after such general election, or until the dissolution of the Council to which he is elected, whichever is the sooner.

Election to be for ~~three~~ years.

17. (1) The election of members shall be by ballot, and shall be held in accordance with the procedure prescribed by the Rules contained in Schedule III to this Ordinance.

Election procedure.

(2) Each voter may give one vote only for each of any number of persons not exceeding the number to be elected for the electoral area in which the voter is entitled to vote.

18. Whenever the Governor has appointed a nomination day for any electoral area and no candidate therefor has been nominated in accordance with section 13 of this Ordinance the Governor may, in his discretion, nominate a person or persons who is or are eligible for election in such electoral area to be the member or members, as the case may be, for that electoral area.

Where no candidate nominated.

19. Any person who has been elected as a member for any electoral area may, by writing under his hand, resign his seat.

Resignation of member.

20. Where an elected member for any electoral area leaves the Colony without resigning his seat, the Governor may nominate any properly qualified person who would be

Absence of member.

eligible for election in that electoral area to act as member for such electoral area during the absence of such elected member. Provided that, if any elected member shall be absent from the Colony for a period of nine consecutive months, the Governor shall declare his seat to be vacant.

By-election.

21. (1) Whenever, from any cause other than the dissolution of Council, a seat in any electoral area becomes vacant the Governor shall, in manner provided by section 15 of this Ordinance, appoint a day and place for the nomination of candidates for such electoral area and, subject to the provisions of section 18, shall direct that a member be elected to fill the vacancy in accordance with the provisions of this Ordinance and of any Rules made hereunder.

(2) Any member so elected or who has been nominated in accordance with the provisions of section 17 of this Ordinance, shall, subject to the provisions of this Ordinance, hold his seat until the dissolution of the Council to which he is so elected or nominated.

PENAL PROVISIONS.

22. (1) Any person who—

- (a) forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to the returning officer any nomination paper, knowing the same to be forged; or
- (b) forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper; or
- (c) without due authority supplies any ballot paper to any person; or
- (d) without due authority makes any mark on any ballot paper issued to any person other than to himself; or
- (e) fraudulently inserts into any ballot box any paper other than the ballot paper which he is authorized by law to insert; or
- (f) fraudulently takes out of the polling station any ballot paper; or
- (g) without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election; or

shall be guilty of an offence, and shall on conviction be liable to imprisonment for any term not exceeding six months.

not being authorized to do so under the provisions of this Ordinance or of any rules made thereunder,

an election, prints, s, or causes to be printed, ed, any manifesto, bill, r, having reference to the ills to bear upon the face and address of the printer

(2) Any attempt to commit any of the offences specified in this section shall be punishable in the same manner in which the offence itself is punishable.

(3) In any prosecution for an offence in relation to nomination papers, ballot boxes, ballot papers, and marking instruments at an election, the property in such papers, boxes and instruments may be stated to be in the returning officer at such election, as well as the property in the counterfoils.

23. (1) Every officer, clerk, and agent in attendance at a polling station shall maintain, and aid in maintaining, the secrecy of the voting in such station, and shall not, before the poll is closed, communicate, except for some purpose authorized by law, to any person any information as to the name or number on the register of any elector who has or has not applied for a ballot paper or voted at that station, or as to the official mark.

(2) No such officer, clerk, agent, or any other person shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote or has voted, or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any voter in such station is about to vote or has voted, or as to the number on the back of the ballot paper given to any voter at such station.

(3) Any person who acts in contravention of the provisions of this section shall, on conviction, be liable to imprisonment for any term not exceeding six months.

24. (1) Every officer, clerk, and agent in attendance at the counting of the votes shall maintain, and aid in maintaining, the secrecy of the voting, and shall not attempt to ascertain at such counting the number on the back of any ballot paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular ballot paper.

(2) No person shall directly or indirectly induce any voter to display his ballot paper after such voter has marked the same, so as to make known to any person the name of the candidate for or against whom he has so marked his vote.

(3) Any person who acts in contravention of the provisions of this section shall on conviction be liable to imprisonment for any term not exceeding six months.

Punishment
for personation.

25. Any person who, at any election held under the provisions of this Ordinance, applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead or of a fictitious person; or who, having voted once at any such election, applies at the same election for a ballot paper in his own name, shall be guilty of the offence of personation, and shall, on conviction, be liable to imprisonment for a term not exceeding six months.

Penalty for
treating.

26. (1) Any person who—

(a) corruptly by himself or by any other person, either before or during an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing, any meat, drink, entertainment, or provision to or for any person, for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at the election;

(b) after an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing any meat, drink, entertainment or provision to or for any person

shall be guilty of treating, and shall be liable on conviction to a fine not exceeding fifty pounds, and shall, for seven years from the date of his conviction, be disqualified from voting at any election under this Ordinance and from being elected a member.

(2) Every voter who corruptly accepts or takes any such meat, drink, entertainment, or provision shall also be guilty of treating, and shall be liable on conviction to the penalty specified in the preceding sub-section, and shall be disqualified as therein provided.

Penalty for
undue
influence.

27. Every person who directly or indirectly, by himself or by any other person on his behalf—

(a) makes use of or threatens to make use of any force, violence, or restraint, or who inflicts or threatens to inflict, by himself or by any other person, any injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or to refrain from voting, or on account of such person having voted or refrained from voting at any election; or

of such person or any other person
refrained from voting or being about to
from voting at such election.

(b) who, by abduction, duress, or any fraudulent device or contrivance, impedes or prevents the free exercise of the franchise of any voter, or thereby compels, induces or prevails upon any voter either to give or to refrain from giving his vote at any election,

shall be guilty of undue influence, and shall be liable on conviction to the penalty specified in section 26, and shall be disqualified as therein provided.

28. The following persons shall be deemed to be guilty of bribery, and shall on conviction be liable to the penalty prescribed in section 26, and to the disqualifications therein provided.

Penalty for bribery.

(a) Every person who directly or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises to procure or to endeavour to procure, any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter or to or for any other person, in order to induce any voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of such voter having voted or refrained from voting at any election under this Ordinance.

(b) Every person who directly or indirectly, by himself or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers, promises, or promises to procure or to endeavour to procure, any office, place or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce such voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any voter having voted or refrained from voting at any election under this Ordinance.

(c) Every person who directly or indirectly, by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement, or agreement, as aforesaid to or for any person in order to induce such person to procure or endeavour to procure the return of any person as a member, or the vote of any voter at any election under this Ordinance.

(2) The expression "corrupt practice" as used in this Ordinance means any of the following offences, namely: treating, undue influence, bribery, and personation.

(3) A corrupt practice shall be deemed to be committed by a candidate if it is committed with his knowledge and consent, or by a person who is acting under the general special authority of such candidate with reference to the election.

30. No election shall be invalid by reason of a non-compliance with the rules contained in Schedule III to this Ordinance if it appears that the election was conducted in accordance with the principles laid down in such rules; or that such non-compliance did not affect the result of the election.

Non-compliance with Rules.

31. (1) If the validity of an election is brought into question by any person qualified either to be elected or to vote at such election, on the ground of the improper rejection or reception of a nomination or of a vote, or of any corrupt practice in connection with such election, or for any other cause, such person may, at any time within fifteen days of the publication of the result of such election in the Gazette, apply to the Governor in Council to set aside such election.

Disputes as to validity of elections.

(2) The Governor in Council shall, after such inquiry, if any, as he may consider necessary, declare by notice in the Gazette, whether the candidate whose election is questioned or any or what other person is duly elected, or whether the election is void.

(3) If the election is declared void, the Governor shall by notification in the manner provided by section 15 of this Ordinance appoint another date for the election of a member for the electoral area concerned.

(4) The Governor in Council may appoint any person having judicial experience to be a commissioner to inquire into and report on the grounds on which the validity of any election is brought into question as aforesaid; and every such commissioner shall have all the powers of a commissioner appointed under the Commissions of Inquiry Ordinance or any law amending or replacing the same.

Orp. 25.

(5) The Governor in Council may, from time to time, make rules for regulating the practice and procedure to be observed in connection with inquiries under this section.

Power to
supplement
Rules in
Schedules.

32. (1) The Governor in Council may, from time to time, make rules to supplement the rules contained in Schedules II and III to this Ordinance or to rescind, vary or amend any such rules.

(2) All rules so made shall be published in the Gazette, and shall thereupon, subject to the provisions of the next following sub-section, be as legal, valid, effectual and binding as if they had been enacted in this Ordinance.

(3) All rules made in pursuance of this section shall be laid as soon as conveniently may be before the Legislative Council; and, if a resolution is passed within forty days of their being so laid before the Legislative Council praying that any such rule shall be annulled, such rule shall thenceforth be void, but without prejudice to anything done thereunder.

(4) The Governor in Council may from time to time make rules dispensing with the attendance of voters at an election and providing for the transmission of votes by post or otherwise.

Power of
Governor to
decide ques-
tions arising
under
Ordinance.

Cap. 24.

33. The decision of the Governor in Council on any question which may arise as to the intention, construction, or application of this Ordinance and of the rules thereunder shall be final.

34. The Legislative Council Ordinance and all rules made thereunder are hereby repealed.

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SCHEDULE I.

PART A.

ELECTORAL AREAS.

1. Nairobi North.
2. Nairobi South.
3. Mombasa.
4. Coast.
5. Nyanza.
6. Rift Valley.
7. Trans Nzoia.
8. Uasin Gishu.
9. Aberdare.
10. Ukamba.
11. Kiambu.

DESCRIPTION OF THE BOUNDARIES OF THE ELECTORAL
AREAS.

1. *Nairobi, North.*

Commencing at the junction of the Gethathuru and Nairobi Rivers;

thence bounded by the Nairobi River down-stream to its junction with the Ngong River;

thence by that river up-stream to its junction with the Kenya and Uganda Railway;

thence by the Kenya and Uganda Railway (up-line) to its intersection with the eastern boundary of Kiambu Native Reserve at Kabete Station;

thence generally northerly by that Native Reserve boundary to the Gethathuru River;

thence by that river down-stream to the point of commencement.

2. *Nairobi, South.*

Commencing at the junction of the Kenya and Uganda Railway with the Ngong River;

thence by that river up-stream to its junction with the Mtioni River;

thence by that river up-stream to a bridge on the Nairobi-Ngong Road;

thence by a line northerly to a beacon at the south-western corner of L.R. No. 189 A.R. (Government Farm extension), which beacon is on the Kiambu Native Reserve boundary;

thence generally northerly by that Native Reserve boundary to its intersection with the Kenya and Uganda Railway at Kabete Station;

thence by that railway (down-line) to the point of commencement.

3. *Mombasa.*

This area comprises the whole of the Island of Mombasa.

4. *Coast.*

Commencing at the intersection of the Engare Len or Rombo River with the Kenya-Tanganyika boundary;

thence by a line bearing $85^{\circ} 11'$ for about 17,941 feet to a beacon;

thence bearing approximately $187^{\circ} 21'$ for about 5,944 feet to a beacon;

thence bearing approximately $112^{\circ} 38'$ for about 2,244 feet to a beacon;

thence bearing approximately $187^{\circ} 11'$ for about 3,800 feet to a beacon on the south-eastern of the two summits of the hill "Kaikomor";

thence bearing approximately $176^{\circ} 11'$ for about 5,054 feet to a beacon;

thence bearing approximately $161^{\circ} 34'$ for about 6,168 feet to a beacon;

thence by a beacons line bearing $180^{\circ} 28'$ for about 18,107 feet to the trigonometrical beacon "Kakaroua";

thence by a straight line, south-easterly to the western corner of L.R. No. 3167;

thence by the south-western boundary of that portion to its southern corner;

thence generally north-easterly and south-easterly by the generally western boundary of the Uasin-Gishu Administrative District, as defined in the aforementioned Proclamation, to the most western corner of L.R. No. 1860;

thence generally southerly by the generally eastern boundary of the Kisumu-Londiani Administrative District, as defined in the aforementioned Proclamation, to the most northern corner of L.R. No. 570/1;

thence south-westerly and south-easterly by the north western and part of the south-western boundaries of that portion to the northern corner of L.R. No. 7148;

thence southerly and easterly by the western and southern boundaries of that portion to the western corner of L.R. No. 3683;

thence southerly by the western boundaries of L.R. Nos. 3683, 561 and part of the western boundary of 5692 to the northern corner of L.R. No. 1642;

thence south-westerly, south-easterly and easterly by the north-western and south-western boundaries of that portion to its most southern corner;

thence bounded easterly by the northern boundary of Teita Administrative District, as defined by Proclamation No. 54 dated 25th day of February, 1924, to its most eastern corner;

thence north-easterly and north-westerly by the south-eastern and north-eastern boundaries of Kitui Administrative District, as defined in the aforementioned Proclamation, to its most northern corner;

thence by a line north-easterly to a point near the southern end of the Lorian Swamp where the Lak Dera intersects the line of latitude 1° north;

thence easterly by that line of latitude, to its intersection with the western boundary of Italian Somaliland;

thence southerly by a part of the western and south-easterly by the south-western boundary of Italian Somaliland to the shores of the Indian Ocean;

thence generally south-westerly by the shores of the Indian Ocean to its intersection with the Kenya-Tanganyika boundary;

thence north-westerly and generally northerly by the Kenya-Tanganyika boundary to the point of commencement.

All the islands within the Protectorate with the exception of the Island of Mombasa, form part of the Coast Electoral Area.

5. Nyanza.

Commencing at the mouth of the Sio River;

thence bounded north-easterly by the Uganda Protectorate boundary to the highest point of Mount Elgon;

thence by a straight line north-easterly to the source of the Swam (or Suam) River;

thence by that river down-stream to the point where it emerges from the crater;

thence south-easterly by the south-western boundary of the Trans Nzoia Administrative District, as defined by Proclamation No. 54 dated 25th day of February, 1924, to where the Kabisi and Nzoia Rivers join at the most southerly point of L.R. No. 5396;

thence south-easterly, south-westerly and easterly by part of the generally western boundary of the Usin Gishu District, as defined by the aforementioned Proclamation, to the trigonometrical beacon Osorongai;

thence by a line bearing $85^{\circ} 11'$ for about 17,941 feet to a beacon;

thence bearing approximately $187^{\circ} 21'$ for about 5,944 feet to a beacon;

thence bearing approximately $112^{\circ} 36'$ for about 2,244 feet to a beacon;

thence bearing approximately $187^{\circ} 11'$ for about 3,800 feet to a beacon on the south-eastern of the two summits of the hill "Kaikomor";

thence bearing approximately $176^{\circ} 11'$ for about 5,054 feet to a beacon;

thence bearing approximately $161^{\circ} 34'$ for about 6,168 feet to a beacon;

thence by a beaconed line bearing $180^{\circ} 28'$ for about 18,107 feet to the trigonometrical beacon "Kakaroua";

thence by a straight line, south-easterly to the western corner of L.R. No. 3167;

thence by the south-western boundary of that portion to its southern corner;

thence generally north-easterly and south-easterly by the generally western boundary of the Usin-Gishu Administrative District, as defined in the aforementioned Proclamation, to the most western corner of L.R. No. 1360;

thence generally southerly by the generally eastern boundary of the Kisumu-Londiani Administrative District, as defined in the aforementioned Proclamation, to the most northern corner of L.R. No. 570/1;

thence south-westerly and south-easterly by the north western and part of the south-western boundaries of that portion to the northern corner of L.R. No. 7148;

thence southerly and easterly by the western and southern boundaries of that portion to the western corner of L.R. No. 3683;

thence southerly by the western boundaries of L.R. Nos. 3683, 561 and part of the western boundary of 5692 to the northern corner of L.R. No. 1642;

thence south-westerly, south-easterly and easterly by the north-western and south-western boundaries of that portion to its most southern corner;

thence south-westerly, south-easterly, easterly and again south-easterly by the generally western, southern and south-western boundaries of L.R. No. 1643 to the western corner of L.R. No. 1644;

thence south-easterly by part of the western boundary of that portion to its intersection with the eastern boundary of Kericho Administrative District as defined in the aforementioned Proclamation;

thence south-westerly, south-easterly and again south-westerly by the generally eastern and south-eastern boundaries of that district to its most southern corner on the Amala River;

thence by that river down-stream to its intersection with the Tanganyika boundary;

thence by that boundary north-westerly to the shores of Victoria Nyanza;

thence generally northerly by the shores of that lake to the point of commencement

The whole of the islands in Victoria Nyanza within the Territorial Waters form part of Nyanza Electoral Area.

6. Rift Valley.

Commencing at the intersection of the Amala River with the Kenya-Tanganyika boundary;

thence bounded by that river up-stream to the most southern corner of Kericho Administrative District as defined by Proclamation No. 54 dated the 25th day of February, 1924;

thence generally north-easterly, north-westerly and again north-easterly by the generally eastern boundary of that district to its intersection with the south-western boundary of L.R. No. 1644;

thence north-westerly by that boundary to the north-western corner of that portion;

thence generally westerly, north-westerly and north-easterly by the southern and generally western boundaries of L.R. No. 1643 to its north-western corner;

thence westerly, north-westerly and north-easterly by the southern, south-western and north-western boundaries of L.R. No. 1642 to its most northern corner;

thence northerly by part of the western boundary of L.R. No. 5692 and the whole of the western boundaries of L.R. Nos. 561 and 3683 to the north-western corner of L.R. No. 3683;

thence south-westerly and northerly by the southern and western boundaries of L.R. No. 7148 to its most northern corner;

thence north-westerly and north-easterly by a part of the south-western and the whole of the north-western boundary of L.R. No. 570/1 to its most northern corner;

thence in a generally northerly direction by the generally eastern boundary of the Kisumu-Londiani Administrative District, as defined by the aforementioned Proclamation, to the most westerly corner of L.R. No. 1860;

thence north-easterly by the north-western boundary of that portion to the south-western corner of L.R. No. 3841;

thence generally easterly, northerly, south-easterly and again northerly by the generally south-eastern boundary of that portion to the south-eastern corner of L.R. No. 1866;

thence north-easterly and northerly by the generally eastern boundaries of L.R. No. 1886 and L.R. No. 6259 to the north-eastern corner of the latter portion;

thence easterly by the northern boundary of L.R. No. 508 to the intersection of that boundary with the western boundary of Baringo Administrative District, as defined in the aforementioned Proclamation, thence northerly by the western boundary of that district to its most northerly point at Kolosia;

thence south-easterly, southerly, south-westerly and again south-easterly by the north-eastern and generally eastern boundary of that district to the most northerly corner of L.R. No. 2689/R;

thence generally south-easterly by the north-eastern boundary of Nakuru Administrative District, as defined by the aforementioned Proclamation, to the south-eastern corner of L.R. No. 2648/R;

thence easterly and generally southerly by part of the northern and the whole of the eastern boundary of the Naivasha Administrative District, as defined in the aforementioned Proclamation, to the south-eastern corner of L.R. No. 369;

thence by a line south-westerly to the most northerly point of Lake Magadi;

thence by the western shores of that lake to its most south-westerly point;

thence by a line south-westerly to the point of intersection of the Southern Uaso Nyiro River with the Kenya-Tanganyika boundary;

thence north-westerly by that boundary to the point of commencement:

Provided that the township of Kijabe shall be included within this electoral area (No. 6, Rift Valley).

7. Trans Nzoia.

Commencing at the point where the Swam (Suam) River emerges from the Crater of Mount Elgon;

thence bounded by that river down-stream till it becomes the Turkwel;

thence by that river down-stream to where it enters Lake Rudolf;

thence southerly by the eastern boundary of Turkana Administrative District, as defined by Proclamation No. 54 dated the 25th day of February, 1924, to the falls on the Amaya River (about longitude $36^{\circ} 24'$ east and latitude $0^{\circ} 55'$ north);

thence north-westerly by a part of the south-western boundary of Turkana Administrative District, as defined by the aforementioned Proclamation, to Kolosia;

thence generally south-westerly by the eastern and south-eastern boundaries of the West Suk Administrative District, as defined by the aforementioned Proclamation, to the northern corner of L.R. No. 7146;

thence generally south-easterly, south-westerly and north-westerly by the north-eastern, south-eastern and south-western boundaries of the Trans Nzoia Administrative District, as defined by the aforementioned Proclamation, to the point of commencement.

8. Uasin Gishu.

Commencing at the trigonometrical beacon Olesos on the Uasin Gishu Administrative District boundary as defined by Proclamation No. 54 dated 25th day of February, 1924;

thence bounded in a north-westerly, south-westerly and westerly direction by that Administrative District boundary to the southern corner of L.R. No. 3167;

thence by the south-western boundary of that portion to its western corner;

thence by a straight line north-westerly to the trigonometrical beacon Kakaroua;

thence by a beacons line bearing approximately $0^{\circ} 28'$ for about 18,107 feet to a beacon;

thence bearing approximately $341^{\circ} 34'$ for about 6,168 feet to a beacon at the end of a spur;

thence bearing approximately $856^{\circ} 11'$ for about 5,084 feet to a beacon on the south-eastern of the two summits of the hill Kaikomor;

thence bearing approximately $7^{\circ} 11'$ for about 3,800 feet to a beacon;

thence bearing approximately $292^{\circ} 36'$ for about 2,244 feet to a beacon;

thence bearing approximately $7^{\circ} 21'$ for about 5,944 feet to a beacon on the southern boundary of L.R. No. 5598;

thence westerly by parts of that southern boundary and that of L.R. No. 4126 to the trigonometrical beacon Osorongai on the Uasin Gishu Administrative District boundary;

thence by that district boundary westerly, northerly and north-easterly to the northern corner of L.R. No. 2311;

thence generally north-westerly, north-easterly and southerly by part of the south-western and the whole of the northern and eastern boundaries of Marakwet Administrative District, as defined in the aforementioned Proclamation, to the north-eastern corner of the Elgeyo District;

thence southerly and westerly by the eastern and southern boundaries of the Elgeyo Administrative District, as defined in the aforementioned Proclamation, to the north-western corner of L.R. No. 503, Lembus Forest Concession, (the Districts of Marakwet and Elgeyo have now been amalgamated under the name of Elgeyo District, vide Proclamation No. 8 dated 6th day of February, 1932);

thence southerly by the eastern boundaries of L.R. Nos. 6259 and 1866 to the south-eastern corner of the latter portion;

thence westerly by the northern boundary of that district to its intersection with the Tanganyika boundary;

thence by that boundary north-westerly to the point of commencement.

11. Kiambu.

Commencing at the south-eastern corner of L.R. No. 369;

thence bounded generally northerly by a part of the generally eastern boundary of the Naivasha Administrative District as defined by Proclamation No. 54 dated 25th day of February, 1924, to the eastern point of L.R. No. 5237 on the Chania River;

thence by that river (which forms a part of the south-western boundary of the Fort Hall Administrative District) down-stream to the north-western corner of original L.R. No. 295;

thence south-westerly, south-easterly and again south-westerly by the generally north-western boundary of that portion to its intersection with the north-eastern boundary of original L.R. No. 290;

thence north-westerly and south-westerly by a part of the north-eastern and the whole of the north-western boundary of that portion to its western corner on the Ndarngu River;

thence by that river down-stream to its junction with the Athi River;

thence south-westerly by the north-western boundary of Machakos Administrative District to the intersection of the north-western boundary of L.R. No. 337 (Athi Township Reserve) with the Athi River;

thence generally westerly by the generally southern boundaries of Nairobi and Kiambu Administrative Districts to the point of commencement:

Provided that the township of Kijabe be excluded from this electoral area (No. 11, Kiambu):

Provided that Electoral Areas No. 1, Nairobi North, and No. 2, Nairobi South, shall be excluded from this electoral area (No. 11, Kiambu).

PART B.

Electoral Areas.

- (a) Central, to be represented by two members.
- (b) East, to be represented by two members.
- (c) West, to be represented by one member.

Description of the boundaries of the electoral areas —

Central shall include the following districts:

Nairobi, Fort Hall, South Nyeri, North Nyeri, Embu, Meru, Thika, Kiambu, Northern Frontier.

East shall include the following districts:

—Digo, Mombasa, Kilifi, Tana River, Lamu, Machakos, Kitui, Teita.

West shall include the following districts and all the other districts in the Colony which are not specially mentioned in the Central or East electoral areas:

Masai, Naivasha, Laikipia, Nakuru, Ravine, Baringo, Nandi, Uasin Gishu, Elgeyo, Trans Nzoia, Central Kavirondo, North Kavirondo, South Kavirondo, Kisumu—Londiani, Kericho, Turkana and West Suk.

PART C.

The Colony and Protectorate.

SCHEDULE II.

RULES FOR THE PREPARATION OF REGISTERS OF VOTERS.

1. (1) When it is necessary to prepare a new register for any electoral area, the Colonial Secretary shall publish a notice in the Gazette calling upon all persons residing in such area who are desirous of having their names registered in the register for such electoral area to forward their claims, within forty-two days from the date of the publication of the notice, to the registering officer appointed for such electoral area.

(2) In the case of registers for any of the electoral areas described in Part B of Schedule I to the Ordinance, every claim shall be made in the Form B appended to these Rules.

(3) In the case of the register for the electoral area described in Part C of Schedule I to the Ordinance, every claim shall be made in the Form C appended to these Rules.

Notice inviting claims of voters.

"(2) In the Electoral Areas to the Ordinance the Form A appe

thence westerly by the northern boundary of that district to its intersection with the Tanganyika boundary;

thence by that boundary north-westerly to the point of commencement.

11. Kiambu.

Commencing at the south-eastern corner of L.R. No. 369;

thence bounded generally northerly by a part of the generally eastern boundary of the Naivasha Administrative District as defined by Proclamation No. 54 dated 25th day of February, 1924, to the eastern point of L.R. No. 5287 on the Chania River;

thence by that river (which forms a part of the south-western boundary of the Fort Hall Administrative District) down-stream to the north-western corner of original L.R. No. 295;

thence south-westerly, south-easterly and again south-westerly by the generally north-western boundary of that portion to its intersection with the north-eastern boundary of original L.R. No. 290;

thence north-westerly and south-westerly by a part of the north-eastern and the whole of the north-western boundary of that portion to its western corner on the Ndarugu River;

thence by that river down-stream to its junction with the Athi River;

thence south-westerly by the north-western boundary of Machakos Administrative District to the intersection of the north-western boundary of L.R. No. 337 (Athi Township Reserve) with the Athi River;

thence generally westerly by the generally southern boundaries of Nairobi and Kiambu Administrative Districts to the point of commencement;

Provided that the township of Kijabe be excluded from this electoral area (No. 11, Kiambu):

Provided that Electoral Areas No. 1, Nairobi North, and No. 2, Nairobi South, shall be excluded from this electoral area (No. 11, Kiambu).

PART B.

Electoral Areas.

- (a) Central, to be represented by two members.
- (b) East, to be represented by two members.
- (c) West, to be represented by one member.

Description of the boundaries of the electoral areas:—

Central shall include the following districts.

Nairobi, Fort Hall, South Nyeri, North Nyeri, Embu, Meru, Thika, Kiambu, Northern Frontier.

East shall include the following districts:

Digo, Mombasa, Kilifi, Tana River, Lamu, Machakos, Kitui, Teita.

West shall include the following districts and all the other districts in the Colony which are not specially mentioned in the Central or East electoral areas:

Masai, Naivasha, Laikipia, Nakuru, Ravine, Baringo, Nandi, Uasin Gishu, Elgeyo, Trans Nzoia, Central Kavirondo, North Kavirondo, South Kavirondo, Kisumu-Londiani, Kericho, Turkana and West Sak.

PART C.

The Colony and Protectorate.

SCHEDULE II.

RULES FOR THE PREPARATION OF REGISTERS OF VOTERS.

1. (1) When it is necessary to prepare a new register for any electoral area, the Colonial Secretary shall publish a notice in the Gazette calling upon all persons residing in such area who are desirous of having their names registered in the register for such electoral area to forward their claims, within forty-two days from the date of the publication of the notice, to the registering officer appointed for such electoral area.

(2) In the case of registers for any of the electoral areas described in Part B of Schedule I to the Ordinance, every claim shall be made in the Form B appended to these Rules.

(3) In the case of the register for the electoral area described in Part C of Schedule I to the Ordinance, every claim shall be made in the Form C appended to these Rules.

Notice inviting claims of voters.

"(2) In the case of Electoral Areas described in Part B of the Ordinance, the Form A appended to these Rules shall be used."

(5) Every claim shall be signed by the claimant.

Preparation of
register of
voters.

2. (1) Upon the expiration of the aforesaid period of forty-two days the registering officers of the electoral areas concerned shall prepare a separate register for each of the electoral areas in respect of which the notification has, under sub-Rule (1) of Rule 1 of these Rules, been published.

(2) In preparing the register, the registering officer shall classify the names of all voters into alphabetical divisions in accordance with the initial letter of the surname of each voter. The registering officer shall then allot a serial number to each name registered. The first serial number shall, in the case of each alphabetical division, be unity. The alphabetical letter of the division together with such serial number shall form the serial number of the voter, and is hereinafter so referred to.

Notice of
completion of
registers.

3. On the completion of the registers, copies thereof shall be forwarded by the registering officers to the Colonial Secretary who shall cause the registers to be published in the Gazette. The Colonial Secretary shall, at the time of publication, give notice in the English language in the principal newspapers circulating in the Colony that copies of the registers have been published as aforesaid, and that the registers, or copies thereof, are open for inspection at all reasonable hours of the day at the offices of the registering officers of the several electoral areas, and at such other places, if any, as shall be specified in the notice.

Claims and
objections.

4. (1) (a) Every person, who is qualified to have his name entered on the register for any electoral area and whose name is omitted from such register, who claims to have it inserted therein may apply to the registering officer for such electoral area to have his name so inserted.

(b) For the purpose of this Rule the words "omitted from such register" shall be deemed to include the name of any person who is registered in one electoral area and who has qualified by residence to have his name inserted in the register for another electoral area.

(2) Every person whose name appears in the register for any electoral area and who objects to the name of any other person or to his own name appearing therein may apply to the registering officer for such electoral area to have such name expunged from the register.

(3) (a) An application under sub-Rule (1) or sub-Rule (2) of this Rule shall be made in writing not later than four weeks after the date of the publication of the register in the Gazette, and shall set out the grounds of the application and shall give an address for the receipt of notices.

(b) Such application shall be accompanied by the sum of five shillings, which shall be returned to the applicant by the registering officer after the claim or objection, as the case may be, has been heard as provided in sub-Rule (4) of this Rule: Provided that, if the application is, in the opinion of the registering officer, frivolous or vexatious such sum shall be forfeited to His Majesty.

(4) The registering officer shall inquire into all claims and objections in open court and shall give ten days' notice of such inquiry by posting a written hearing notice to each applicant and to each person objected to, and by affixing a similar notice on some conspicuous part of the court.

(5) (a) As soon as possible after the said inquiry the registering officer shall insert in the register and allot a serial number to the name of any applicant whose claim to have his name so inserted has been proved to the satisfaction of the registering officer, and shall expunge from the register the name of any person who has been proved to the satisfaction of the registering officer to be disqualified from having his name retained in the register.

Provided that no name, to which an objection has been raised under this Rule, shall be expunged from the register unless the applicant appears at the inquiry in person, or by a representative duly authorized by him in writing, in support of his objection and proves to the satisfaction of the registering officer that the person in respect of whom he has raised the objection is disqualified from having his name retained in the register.

(b) The registering officer shall as soon as possible forward a list of the names together with the serial numbers, so inserted in or expunged from the register, as the case may be, to the Colonial Secretary who shall cause such list to be published in the Gazette.

(c) The registering officer shall, at the time of entering in the register the name and serial number of any person to whom paragraph (b) of sub-Rule (1) of this Rule applies, notify in writing the registering officer for the electoral area in which such person formerly resided and is registered, and

such notification shall be sufficient authority for the registering officer to whom it is addressed to expunge from the register the name of such person.

Appeal from
decision of
registering
officer.

5. (1) If any applicant under Rule 4 of these Rules is dissatisfied with the decision of the registering officer, he may, within ten days from the date thereof, appeal to the revising officer.

(2) Every such appeal shall be in writing and shall state shortly the ground of appeal.

(3) The revising officer shall hear the appeal at such time and at such place as to him may seem fit: Provided that he shall in writing give ten days' notice of the hearing of the appeal to the applicant and to the person objected to, as the case may be.

(4) When the revising officer has determined all the appeals which have been lodged with respect to any register, he shall forward to the registering officer concerned and to the Colonial Secretary a statement under his hand of the names and serial numbers which he has decided shall be inserted in or expunged from the register and the Colonial Secretary shall cause such statement to be published in the Gazette.

(5) There shall be an appeal from the decision of the revising officer to the Supreme Court.

Certification
of register.

6. Within a period of ten days after the publication of the statement in the Gazette as prescribed in sub-Rule (4) of Rule 5 of these Rules, the registering officer shall certify the register in the following form:—

I,
the Registering Officer for the Electoral
Area of hereby certify that this
register is the register of voters for the said electoral area
as and at the date of this certificate.

Station.....

Date Signature.

ANNUAL REVISION OF VOTERS.

7. (1) On or before the thirty-first day of December in every year, the Colonial Secretary shall publish a notification in the Gazette calling upon all persons desirous of having their names inserted in the register for any electoral area to forward their claims to the registering officer for such area. Such claims must reach the registering officer before the first day of September in the year next following the year in which the notification was published.

Notice inviting
claims.

(2) If any claim is received on or after the first day of September such claim shall not be considered for the revision in respect of which it was made, but shall be placed on record and receive consideration when the next annual revision is undertaken.

8. (1) Every registering officer shall, not later than thirty days after the said first day of September, prepare a revised register, comply with the provisions of Rule 9 (2) of these Rules and forward a copy of the revised register to the Colonial Secretary together with a list of all names which have been inserted in or expunged from the register, as the case may be.

Preparation of
revised
registers.

(2) In preparing such registers the registering officers shall include the names of all persons who appear to be entitled to have their names inserted therein, and shall expunge from the registers the name of any person who is dead or who has become disqualified or who has permanently left the electoral area or who has not resided in the electoral area within the preceding twelve months: The registering officer shall also correct any mistake or supply any omission which appears to him to have been made in the register. It shall be the duty of the registering officer to post to each person, whose name has been expunged from the register under the provisions of this Rule on the ground that such person has become disqualified or has left the electoral area or has not resided in the electoral area within the preceding twelve months, an intimation that his name has been so expunged.

(3) The Colonial Secretary shall as soon as possible after the receipt of the registers cause copies thereof to be published in the Gazette, together with a list of all names of persons which have been inserted in and expunged from the register; and notice shall be given in the principal newspapers circulating in the Colony that copies of the register, and of the list of names so inserted and expunged, have been published as aforesaid, and that registers, or copies thereof, are open

for inspection at all reasonable hours of the day at the offices of the registering officers of the several electoral areas, and at such other places, if any, as shall be specified in the notice. Such notice shall include a short statement as to the manner in which and the time within which claims and objections may be made.

Claims and objections with regard to revised register.

9. (1) Claims and objections may be made with regard to the revised registers in manner provided by Rule 4 of these Rules and within the time therein prescribed. Such claims shall be heard and determined by the registering officer in the manner provided by the said Rule.

(2) Appeals may be made to the revising officer from the decision of the registering officer in the manner prescribed by Rule 5 of these Rules and the revising officer, the registering officer and the Colonial Secretary shall respectively proceed as therein provided.

(3) There shall be an appeal from the decision of the revising officer in any case to the Supreme Court.

(4) The registering officer shall certify the revised registers within the period and in manner provided by Rule 6 of these Rules, and the registers so certified shall come into operation on the date of such certification and shall continue in operation until superseded by other revised registers.

Form A.

To the Registering Officer of the Electoral Area of

I claim to have my name inserted in the list of persons entitled to vote for the election of a member to represent the Electoral Area,

Name in full (in block capitals).

Husband's name (if married).

Residential address.

Postal address.

Passport number, if any.

Occupation.

I hereby certify that I am qualified to have my name inserted in the register of voters for the above area, and that I do not suffer from any of the disqualifications set out in section 9 of the Legislative Council Ordinance, 1935.

Date

Signature or thumb print
mark of Applicant.

(Print section 9 of the Ordinance on the back of the Form).

Form B:

To the Registering Officer,

The Indian Electoral Area.

I claim to have my name inserted in the list of persons entitled to vote for election of the Indian Members to represent the Indian Electoral Area.

Name in full.

Surname (if any).

Father's name in full.

In case of married women or widows, husband's name in full.

Address (Residential and Postal).

Occupation.

Number and date of passport, or driving licence, or poll tax receipt, or trading licence, or birth certificate.

I hereby certify that I am qualified to have my name inserted in the register of voters for the above area and that I do not suffer from any of the disqualifications set out in section 9 of the Legislative Council Ordinance, 1935, of which has been read by me. I have full knowledge, the same having been explained to me as reproduced on the reverse of this form.

Signature or thumb print
mark of Applicant.

(Print section 9 of the Ordinance on the back of the Form).

Form C.

To the District Commissioner,

I claim to have my name inserted in the list of persons entitled to vote for the election of an Arab Member of the Legislative Council.

Name in full.

Address and occupation.

Questions to be answered by the Applicant.

- (1) State nationality.
- (2) State age.
- (3) Have you been convicted of a criminal offence and sentenced to a term of imprisonment of either description for a term of 12 months or more? If so, have you received a pardon?
If imprisoned when did such imprisonment expire?
- (4) Have you received relief from any public funds whatsoever within 12 months of your application?
- (5) Have you been declared bankrupt or insolvent by a competent court in the Colony or elsewhere and not received your discharge?
- (6) When did you first enter the Colony.
- (7) Can you write Arabic or Swahili in Arabic characters?

.....
Signature or thumb print
mark of Applicant.

SCHEDULE III.

RULES FOR THE ELECTION OF MEMBERS.

1. Any person not ineligible for election may be nominated as a candidate for election. Qualification for.
2. (1) Each candidate shall be nominated by means of a separate nomination paper signed by not less than nine persons, whose names are on the register of voters for the electoral area for which the candidate seeks election, as proposer, seconder and supporters, each of whom shall certify that in his opinion such candidate has such a knowledge of the English language as will enable him to take part in the proceedings of the Council. (Proceeds for nomination.)
- (2) The signatures of the proposer and seconder and supporters shall be witnessed by a magistrate, justice of the peace or by a notary public. Attestation of signatures of proposer and seconder.
- (3) Every nomination paper shall be in the Form A annexed to these Rules and shall be accompanied by a deposit of one thousand shillings. Form of nomination paper.
3. The returning officer shall, at any time between the date of the notification published under section 16 of the Ordinance and before the hour of 12 noon on nomination day, supply a nomination paper to any registered voter who applies for one. Supply of forms of nomination paper.
4. (1) Every nomination paper subscribed and witnessed as aforesaid and accompanied by the deposit prescribed in sub-Rule (3) of Rule 2 of these Rules shall be delivered to the returning officer by the candidate or by his proposer or seconder between the hours of 9 a.m. and 12 noon on the day and at the place appointed for the nomination of the candidates. Delivery of nomination paper.
- (2) Nomination papers which are delivered after the hour of 12 noon shall be rejected.
5. On the day appointed for the nomination of a member for any electoral area, every candidate and his proposer, seconder and one other person selected by the candidate, and no persons other than the aforesaid, shall, except for the purposes of assisting the returning officer, be entitled to attend the proceedings during the time appointed for nomination. Persons entitled to attend election proceedings.

Government funds or from
the funds of any local
authority.

Examination of nomination papers.

6. The returning officer shall permit the candidates and their proposers and seconders and the person, if any, selected by the candidate as aforesaid, to examine the nomination papers of candidates which have been received for the electoral area concerned.

Description of candidates in nomination papers.

7. (1) Each candidate shall be described in the nomination paper in such manner as, in the opinion of the returning officer, is calculated sufficiently to identify such candidate.

(2) No objection to a nomination paper on the ground that the description of the candidate therein is insufficient or that the nomination paper is not in accordance with these Rules shall be allowed or deemed to be valid, unless such objection is made by the returning officer or by some other person within one hour after the time of delivery of the nomination paper.

(3) The decision of the returning officer as to the sufficiency or validity of any nomination paper shall be final.

Where candidate unopposed.

8. If at 12 noon on the day appointed as the nomination day for any electoral area, candidates not exceeding the number to be elected for that electoral area are nominated, the returning officer shall forthwith declare such candidates to be elected, and shall report such election to the Colonial Secretary, who shall cause a notification of such result to be published in the Gazette.

Withdrawal of candidate.

9. A candidate may, before 12 noon on nomination day but not afterwards, withdraw from his candidature by giving a notice to that effect signed by him to the returning officer.

Where candidates are opposed.

10. If more candidates than the number to be elected are duly nominated for any electoral area the returning officer shall adjourn the election for the purpose of taking a poll, and shall report to the Governor the names of the candidates as described in their respective nomination papers.

Notice that poll will be taken.

11. Upon receipt of such report the Governor shall cause to be published in the Gazette and also in such local newspapers as he may think fit, a notice specifying—

(a) The electoral area for which a poll will be taken;

(b) The date on which the poll will be taken, which shall not be sooner than fourteen days after the date of publication under this Rule of the notice in the Gazette.

(c) The names of the candidates as described in their respective nomination papers and the names of their proposers and seconders and supporters; and

(d) The places at which a poll will be taken, and the portion of the electoral area allotted to each polling station.

Provided that where the electoral area is an area described in Part B of Schedule I to the Ordinance the Governor shall cause a symbol of identification to be allotted to each candidate, and, when publishing the names of the candidates as provided in paragraph (c) of this Rule, shall publish together with such names a facsimile of the symbol allotted to each candidate.

12. If, after an election has been adjourned for the purpose of taking a poll, one of the candidates nominated dies before the poll has commenced, the Governor shall, upon being satisfied of the fact of such death, countermand the notice for the poll, and shall appoint in manner prescribed by section 21 of the Ordinance, a fresh date for the election. In such case all proceedings with reference to the election shall be re-commenced. Provided that no new nomination shall be required in respect of a candidate who had been duly nominated at the time of the countermand of the poll.

Death of candidate before poll taken.

13. The Governor shall appoint a person (in these Rules called a "presiding officer") to preside at each polling station. Such presiding officer shall be supplied with a copy of the register of voters containing the names of voters in the area assigned to his polling station.

Presiding officer.

14. The Governor may appoint at each polling station one or more deputy presiding officers, one of whom, to be selected by the presiding officer, shall act as presiding officer in the event of illness or unavoidable absence of the presiding officer. A deputy presiding officer when so acting shall exercise all the powers and perform all the duties of the presiding officer under these Rules.

Deputy presiding officers.

15. No person shall be admitted to vote at any polling station except the one allotted to him.

Restriction of voting to proper polling stations.

16. Unless the Governor, by notification in the Gazette, appoints any other hour, the poll shall open at 8 a.m. and shall close at 6 p.m. on the same day.

Time for opening and closing poll.

Duty of presiding officers.

Form of ballot papers.

17. The presiding officer shall keep order in his station, and shall regulate the number of electors to be admitted at a time, and shall exclude all other persons, except the clerks, the agents of the candidates and the police officers on duty.

18. (1) Each ballot paper for use in connection with the election of a member for the electoral areas described in Part A of Schedule I to this Ordinance shall be capable of being folded up and shall—

(a) contain a list of the candidates as described in their respective nomination papers;

(b) have a number printed on the back thereof;

(c) have attached a counterfoil on which shall be printed the same number as appears on the back of the ballot paper;

(d) be printed so that the name of each candidate is adjacent to the square in which the voter is to record his vote; and

(e) shall, so far as is possible, be in the Form B annexed to these Rules.

(2) Each ballot paper for use in connection with the election of members for the electoral areas described in Part B of Schedule I to the Ordinance shall be capable of being folded up and shall—

(a) contain a list of the candidates as described in their respective nomination papers together with the symbol of identification allotted to each candidate in accordance with the proviso to Rule 11 of these Rules. The names of the candidates shall be printed in English, Gujarati, Urdu and Gurmukhi;

(b) have a number printed on the back thereof;

(c) have attached a counterfoil on which shall be printed the same number as appears on the back of the ballot paper;

(d) be printed so that the name and symbol of identification of each candidate is adjacent to the square in which the voter is to record his vote; and

(e) shall, so far as is possible, be in the Form C annexed to these Rules.

19. (1) Every ballot box shall be so constructed that the ballot papers can be inserted therein, but cannot be withdrawn therefrom without the box being unlocked.

Ballot boxes.

(2) The presiding officer shall, immediately before the commencement of the poll, show the empty unlocked ballot box to such persons, if any, as may be present in the polling station, so that they may see that it is empty. The presiding officer shall then lock the ballot box and place his seal upon it in such a manner as to prevent it being opened without breaking the seal, and shall place it in his view for the receipt of ballot papers, and keep it so locked and sealed.

Closing of ballot box.

20. (1) Immediately before a ballot paper is delivered to a voter it shall be marked on both sides with an official mark, either stamped or perforated.

Delivering of ballot papers to voters.

(2) The serial number, name and description of the voter, as stated in the copy of the register of voters, shall then be called out, and the serial number of such voter shall be marked on the counterfoil, and a mark shall be placed in the register against the number of the voter to denote that he has received a ballot paper.

21. (1) The voter on receiving the ballot paper shall forthwith proceed to a place screened from observation, which shall be provided by the presiding officer, and there mark his paper by placing the mark X (and no other mark, writing or signature) opposite the name or names of the candidate or candidates, as the case may be, whom he selects.

Manner of voting.

(2) The voter shall then fold the ballot paper so as to conceal his vote, and insert the ballot paper, so folded, into the ballot box.

(3) He shall vote without undue delay, and shall quit the polling place as soon as he has inserted his ballot paper into the ballot box.

22. A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used as ballot paper may, on delivering to the presiding officer the ballot paper so inadvertently dealt with and proving the fact of the inadvertence to the satisfaction of the presiding officer, obtain another ballot paper in the place of the ballot paper so delivered up (in these Rules called a "spoilt ballot paper"), and the spoilt ballot paper shall be immediately cancelled.

Spoilt ballot papers.

23. If any voter states that he is illiterate or is unable to mark his ballot paper, the presiding officer shall—

Provision for illiterates.

(a) cause the ballot paper of such voter to be marked as the elector directs, and then insert the ballot paper in the ballot box; and

- (b) write in the register opposite the name of such voter a statement of the fact that the ballot paper was marked by him at the request of the voter, and the reason therefor.

Application for voting paper in name of person who has already voted.

24. (1) If a person representing himself to be a particular voter named in the register of voters applies for a ballot paper after another person has voted as such voter, the applicant shall, upon marking and subscribing a declaration in the form provided in this Rule, be entitled to mark a ballot paper in the same manner as any other voter.

(2) Such ballot paper (in these Rules called a "tendered ballot paper") shall be of a colour different from the other ballot papers, and, instead of being put into the ballot box, shall be given to the presiding officer and endorsed by him with the name of the voter, and his serial number in the register of voters.

(3) Such ballot papers shall be set aside in a separate packet and shall not be counted by the returning officer.

(4) The name of the voter and his serial number on the register shall be entered on a list in these Rules called the "tendered votes list".

Form of Declaration.

I, A.B., of solemnly and sincerely declare that I am the same person whose name appears as A.B., No. in the register of voters in force for the electoral area of

Witness: C.D.

Presiding Officer.

(Signed) A.B.

25. No person other than the returning officer, presiding officer, or a deputy presiding officer shall have any communication whatsoever with a voter while such voter is in a polling station for the purpose of receiving a ballot paper and recording his vote thereon. Should any such communication take place, the presiding officer shall not permit the voter to record a vote.

26. The presiding officer of each polling station shall, as soon as practicable after the close of the poll, in the presence of the agents (if any) of the candidates, make up into separate packets, seal with his own seal and the seals of the agents of the candidates who desire to affix their seals—

Despatch of ballot boxes, etc. to returning officer.

- (a) the ballot box unopened, but with the key attached;
- (b) the unused and spoiled ballot papers placed together;
- (c) the marked copies of the register of voters and the counterfoils of the ballot papers; and
- (d) the packet containing the tendered ballot papers and the tendered votes list.

and shall despatch or hand over such packets and ballot box to the returning officer.

COUNTING VOTES.

27. (1) The returning officer shall make arrangements for counting the votes as soon as practicable after he has received all the ballot boxes relating to any electoral area, and for that purpose shall give notice in writing of the time and place at which he will begin to count the votes.

Notice of time for counting votes.

(2) Each candidate and his agent shall have the right to be present at the counting of the votes.

28. Any ballot paper which has not on its back an official mark, or on which votes are given to more than one candidate, or on which anything except the number on its back is written or marked by which the vote can be identified, shall be void, and shall not be counted.

Rejection of ballot papers.

29. The returning officer shall endorse "rejected" on any ballot paper which he may reject as invalid.

Marking rejected ballot papers.

30. The returning officer shall not open the sealed packet of tendered ballot papers, but shall retain the same; unless such packet is required for the purposes of an inquiry under section 25 of the Ordinance.

Tendered ballot papers.

31. The decision of the returning officer as to any question arising in respect of any ballot paper shall be final.

Finality of decision of returning officer.

32. When the counting of the votes has been completed, the returning officer shall forthwith declare the candidate to whom the greatest number of votes has been given to be elected: Provided that upon the application of any candidate or his agent a recount shall be made before the returning officer makes the declaration.

Declaration of poll.

33. When the counting of the votes has been completed, the returning officer shall, in the case of the election of one member for any electoral area, declare the candidate to whom the greatest number of votes has been given to be elected, and in the case of the election of two members for any electoral area, declare the candidate to whom the greatest number of votes has been given, and the candidate to whom the next greatest number of votes has been given, to be elected:

Provided that, upon the application of any candidate or of the agent of such candidate, one recount or as many recounts as to the returning officer may seem reasonable, shall be made before the returning officer makes the declaration.

28. Any ballot back an official mark of an election of a member, votes are given to more than two candidates, or on which, in the case of the election of more than two members for any electoral area, more than two candidates are named, except the number by which the vote can be identified, shall be void, and shall not be counted.

Equality of votes.

89. When an equality of votes is found to exist between any candidates, and the addition of a vote would entitle any one of the candidates to be declared elected, the determination of the candidate to whom such one additional vote shall be deemed to have been given shall be made by lot in the presence of the returning officer in such manner as he shall think fit.

Disposal of ballot papers.

84. The returning officer shall, upon the completion of the counting and after he has declared the result, seal up the voting papers and all other documents relating to the election, and shall retain the same for a period of six months, and thereafter, unless otherwise directed by an order of the Governor, cause them to be destroyed.

Refund of deposit.

85. The returning officer shall as soon as may be convenient to him refund to each candidate the deposit of one thousand shillings made in accordance with the provisions of sub-Rule 2 (3) of these Rules, provided that, should any candidate fail to obtain one-sixth of the total votes polled for the electoral area for which he was a candidate for election, such deposit shall be forfeited to His Majesty.

Publication of election.

86. The returning officer shall without delay report the result of the election to the Governor who shall cause the name of the member elected to be published in the Gazette.

FORM A. (RULE 2 (B)).

Nomination Paper for Electoral Area.

1. Name in full of candidate.
2. Address.
3. Occupation.
4. Name of proposer.
5. Name of seconder.
6. Names of supporters.

We the undersigned proposer, seconder and supporters hereby certify that the above-named candidate has such a knowledge of the English language as will enable him to take part in the proceedings of the Council.

Signed by the above named (proposer) in my presence this A.B. (a Magistrate, Justice of the Peace or a Notary Public).

Signed by the above named (seconder) in my presence this C.D. (a Magistrate, Justice of the Peace or a Notary Public).

To be followed by witnesses of signatures of supporters

*Here insert description of electoral area.

Governor may, in at the forfeiture of deposit, order that the candidate."

In the absence of the members elected, the lot may be...

FORM B (RULE 18 (1)).

Number
THE COLONY AND PROTECTORATE OF KENYA
THE LEGISLATIVE COUNCIL ORDINANCE, 1955
The Leg. Co. Ord., 1955
FORM B
BALLOT PAPER
COUNTERFOIL
Vote's Serial Number in Register

THE COLONY AND PROTECTORATE OF KENYA
THE LEGISLATIVE COUNCIL ORDINANCE, 1955
FORM B (Rule 18 (1) of Sch. III of the Ordinance)
BALLOT PAPER
(The Electoral Area)
1. A.B.
2. C.D.

Official Mark [P.T.O.]

[Blank]

Number (to correspond to the number on the counterfoil)

BALLOT PAPER.

Official mark
Election for the Electoral Area of
Date

FORM C

Form O

Rule 18 (2) of Sch. III of the Ord.

THE COLONY AND PROTECTORATE
OF KENYATHE LEGISLATIVE COUNCIL
ORDINANCE, 1935

THE INDIAN ELECTORAL AREA

BALLOT PAPER

Instructions to Voter

Mark the ballot paper by placing the mark X opposite the names of the candidates you wish to be elected. A mark may not be placed against the name of more than one candidate. Do not place more than one mark against the name of any individual candidate.

Make no other mark whatever on the front of the form.

Fold the right-hand portion of the form over the centre, so as to bring the back of the form uppermost. Then fold the left-hand portion over this bringing the counterfoil uppermost.

Your vote will then be doubly concealed.

| Name | Symbol of Identification |
|---------|--------------------------|
| 1. A.B. | |
| 2. C.D. | |
| 3. E.F. | |
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Official mark

P.T.O

SERIAL No.

(Mark)

BALLOT PAPER

Official
MarkElection for the
Area

Date

Voter's Serial Number in Register

SERIAL No.

THE COLONY AND
PROTECTORATE OF
KENYAThe Legislative Council
Ordinance, 1935THE
INDIAN ELECTORAL
AREACOUNTERFOIL OF
BALLOT PAPERVoter's Serial Number
in Register

SCHEDULE IV.

VOTING BY-POST RULES.

1. (1) In any election of a member under the provisions of the Legislative Council Ordinance, 1935, any elector who satisfies a District Commissioner either orally or in writing—

- that he resides at least ten miles from the nearest polling station at which he is entitled to vote; or
- that he has reason to believe that on the polling day he will not be within ten miles of the polling station at which he is entitled to vote; or
- that on account of ill-health and infirmity he will be prevented from voting,

may apply to the said District Commissioner for a postal ballot paper.

(2) Such application shall be in writing, shall contain the serial number of the voter, as it appeared in the Gazette, and shall be signed by the voter.

(3) The signature thereto shall be certified by a district officer, justice of the peace or commissioner for oaths, if the applicant is within the Colony, or by a notary public, if the applicant is not within the Colony.

2. (1) If the District Commissioner is satisfied as to the applicant's right to vote he shall furnish him with a postal ballot paper. Provided that the District Commissioner shall not issue a postal ballot paper after the hour of four o'clock in the afternoon of the day preceding the day on which polling is to take place.

(2) If the District Commissioner is not satisfied as to the applicant's right to vote, he shall give the applicant notice that he is not so satisfied, and that the applicant should attend personally at the proper polling station to record his vote.

(3) If the applicant is not within the Colony, such ballot paper may be posted to him by air mail should the applicant so request and should the necessary postal charges therefor be tendered by such applicant at the time of his application.

3. Each postal ballot paper shall, so far as is possible, conform to the forms annexed to Schedule III to the Ordinance and shall, in addition, have a number marked on the back corresponding to the registered serial number of the voter to whom it is issued, and shall have the same serial number marked on the face of the counterfoil. The counterfoil shall

(As Commissioner for oaths)

contain a space for the voter's signature and for the signature of the witness thereto as provided for by these Rules, and shall be capable of being folded up so that the counterfoil shall be visible.

4. (1) The District Commissioner shall inform the returning officer of the electoral area for which the applicant is registered as a voter of the fact that a postal ballot paper has been sent to such applicant and shall, at the same time, forward to the returning officer the written application of the said applicant.

(2) The returning officer shall, if possible, before the ballot notify the presiding officer at every polling station at which the register on which the applicant's name appears is used, the fact of the issue of such ballot paper.

5. (1) A voter who has applied for and obtained a postal ballot paper shall, in order to record his vote, produce the same to any postmaster, magistrate, or justice of the peace within the Colony or to a notary public if the voter is not within the Colony. He shall then mark such paper by placing the mark X opposite the name of the candidate for whom he votes, but so that the postmaster, magistrate, justice of the peace or notary public, as the case may be, shall not see such mark. No other mark, writing, or signature save as herein provided shall be placed by the voter on the postal ballot paper. The voter shall then fold the postal ballot paper so as to conceal his vote, and shall sign his name thereon in the place provided on the counterfoil, in the presence of the postmaster, magistrate, commissioner for oaths, justice of the peace or notary public, as the case may be, who shall witness such signature. For the purposes of this rule, the term "postmaster" shall mean any person who is authorised by the Postmaster General to be in charge of a post office.

(2) If the voter is within the Colony he shall then enclose the ballot paper in the envelope provided, and hand it to the postmaster, magistrate, or justice of the peace, as the case may be, who shall post the ballot paper or deliver it personally to the returning officer as soon as possible.

(3) If the voter is not within the Colony he shall enclose the ballot paper in the envelope provided and post or otherwise transmit it to the returning officer as soon as possible.

(4) The returning officer for the area in which the voter is registered on the receipt of an envelope containing a postal ballot paper shall keep the same until the close of the poll.

5. (1) A voter who has applied for and obtained a postal ballot paper shall, in order to record his vote, produce the same, if the voter is within the Colony, to any postmaster, magistrate, commissioner for oaths or justice of the peace (other than a candidate for election for the electoral area in which the voter is registered) or, if the voter is not within the Colony, to a notary public or commissioner for oaths. Such voter shall then mark such paper by placing the mark X opposite the name of the candidate or candidates, as the case may be, for whom he votes, but so that the postmaster, magistrate, commissioner for oaths, justice of the peace or notary public, as the case may be, shall not see such mark. No other mark, writing, or signature save as herein provided shall be placed by the voter on the postal ballot paper. The voter shall then fold the postal ballot paper so as to conceal his vote, and shall sign his name thereon, in the place provided on the counterfoil, in the presence of the postmaster, magistrate, commissioner for oaths, justice of the peace or notary public, as the case may be, who shall witness such signature. For the purposes of this rule, the term "postmaster" shall mean any person who is authorised by the Postmaster General to be in charge of a post office.

(2) If the voter is within the Colony he shall then enclose the ballot paper in the envelope provided and hand it to the postmaster, magistrate, commissioner for oaths, or justice of the peace, as the case may be, who shall post the ballot paper or deliver it personally to the returning officer as soon as possible.

6. At the count of the poll the returning officer shall produce unopened all envelopes containing ballot papers received by him before the close of the poll, and shall open such envelopes in the presence of a presiding officer or deputy presiding officer of the electoral area concerned.

7. (1) The returning officer shall then produce all applications for postal ballot papers and, without unfolding the postal ballot paper or allowing it to be inspected, compare the signature of the voter on the counterfoil of the postal ballot paper with the signature on the application, and shall allow the presiding officer or deputy presiding officer referred to in Rule 6 of these Rules to inspect the signatures. The returning officer shall determine whether or not the signature on the counterfoil of the postal ballot paper is that of the applicant.

(2) If the postal ballot paper is allowed by the returning officer, he shall tear off the counterfoil containing the voter's name and, without looking at the name of the candidate for whom the voter has voted, shall insert the folded postal ballot paper in a special ballot box provided for the reception of postal ballot papers. When all such postal ballot papers have been so inserted in such ballot box the counting of the votes so recorded therein shall commence.

(3) The list of the numbers of votes received by each candidate shall show separately the votes tendered personally and the votes tendered by postal ballot papers.

8. If a postal ballot paper is filled up or otherwise dealt with in a manner contrary to that provided by these Rules, the returning officer shall disallow such postal ballot paper, and the vote shall not be counted.

9. If the returning officer disallows any postal ballot papers, such postal ballot papers shall be enclosed in a sealed packet, which the returning officer shall retain in his custody unless it is required for the purposes of any inquiry under the Ordinance.

10. The returning officer's decision in respect of any postal ballot paper shall be final.

11. Any person who attempts to induce any person in his employ to obtain a postal ballot paper with the intention of influencing such last-mentioned person by bribery or intimidation to record his vote in favour of any particular candidate shall be liable on conviction to a penalty not exceeding seventy-five pounds.



Colony and Protectorate of Kenya.

IN THE TWENTY-SIXTH YEAR OF THE REIGN OF
HIS MAJESTY KING GEORGE V.

ARMIGEL DE VINS WADE, C.M.G., O.B.E.,
Acting Governor.

Assented to in His Majesty's
name this 23rd day of August
1935.

A. DE V. WADE

Acting Governor.

AN ORDINANCE TO PROVIDE FOR THE
NOMINATION AND ELECTION OF MEMBERS TO
THE LEGISLATIVE COUNCIL OF THE COLONY
AND PROTECTORATE OF KENYA

ORDINANCE No. XXVI of 1935

An Ordinance to provide for the Nomination and Election of Members to the Legislative Council of the Colony and Protectorate of Kenya.

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as the Legislative Council Ordinance, 1935, and shall come into force on such date as the Governor may, by proclamation, appoint. Short title and commencement.

2. In this Ordinance, unless the contrary intention appears— Interpretation.

"British subject" includes persons who have been naturalized under any Imperial statute or under any enactment of a British possession, as well as the natural-born subjects of His Majesty;

"register" means the register, prepared in accordance with the provisions of this Ordinance, of the persons entitled to vote at the election of a member to represent any of the electoral areas referred to in section 3 of this Ordinance;

"member" means a member of the Legislative Council.

3. (1) There shall be elected to the Legislative Council in accordance with the provisions of this Ordinance, eleven European members, five Indian members, and one Arab member. Representation of electorates.

(2) Such members shall represent the electoral areas described in Schedule I to this Ordinance as follows:—

(a) One European member shall be elected for, and by the European voters of, each of the electoral areas described in Part A of that Schedule.

(b) (i) Two Indian members shall be elected for, and by the Indian voters of, the Central electoral area described in Part B of that Schedule.

(ii) Two Indian members shall be elected for, and by the Indian voters of, the Eastern electoral area described in Part B of that Schedule.

(iii) One Indian member shall be elected for, and by the Indian voters of, the Western electoral area described in Part B of that Schedule.

(c) One Arab member shall be elected for, and by the Arab voters of, the electoral area described in Part C of that Schedule.

Registering officers.

4. The Governor shall appoint for each electoral area one or more registering officers to perform the duties of registering officers under the Rules contained in Schedule II to this Ordinance.

Revising officer.

5. The Governor shall appoint a revising officer to perform the duties of revising officer under the Rules contained in Schedule II to this Ordinance.

Returning officer.

6. The Governor shall appoint a returning officer for each electoral area to perform the duties of returning officer under the Rules contained in Schedule III to this Ordinance.

Registers of voters.

7. For each electoral area a separate register of the persons entitled to vote in such area for the election of a member or members, as the case may be, shall be prepared, published and revised in the manner prescribed by the Rules contained in Schedule II and all amendments thereof.

Registers to be conclusive evidence.

8. The registers of voters for the time being in operation shall be conclusive evidence for the purpose of determining whether a person is or is not entitled to vote in any electoral area for the election of a member to represent such area.

Disqualification of voters.

9. No person shall be entitled to have his name on any register of voters if such person—

- (1) (a) is not a British subject of European origin or descent;
- (b) is not a British subject of Indian origin or descent, or is not an Indian under the suzerainty or protection of His Majesty; or
- (c) is not a male Arab, whether a British subject or under the protection or suzerainty of His Majesty, able to write Arabic or Swahili in Arabic characters;
- (2) has not attained the age of twenty-one years;
- (3) is, in the opinion of a competent court, of unsound mind;

(4) has been convicted of a criminal offence and has been sentenced to imprisonment for a term of twelve months or more and has not received a pardon: Provided that such disqualification shall cease two years after the date of the expiration of the sentence;

(5) has, since the publication of the last revised register of voters, received relief from Government funds or from the funds of any local authority;

(6) has been declared bankrupt or insolvent by a competent court in the Colony or elsewhere and has not received his discharge;

(7) is suffering from any disqualification provided by any enactment for the time being in force;

(8) has not ordinarily resided in the Colony for at least one period of twelve consecutive months prior to the date of his application to have his name entered on the register;

(9) has not resided in the electoral area in which the application to have his name entered on the register is made for a period of not less than three months.

10. No person shall be entitled to be registered as a voter in, or to vote in, more than one electoral area.

Voters to be registered once.

11. Any person, not otherwise disqualified under the provisions of this Ordinance, shall be entitled:—

Qualification for registration.

(a) If a British subject of European origin or descent, to have his name entered in the register of voters for one of the electoral areas described in Part A of Schedule I to this Ordinance.

(b) If a British subject of Indian origin or descent, or an Indian under the suzerainty or protection of His Majesty, to have his name entered in the register of voters for one of the electoral areas described in Part B of Schedule I to this Ordinance.

(c) If a male Arab, whether a British subject or under the protection or suzerainty of His Majesty, to have his name entered in the register of voters for the electoral area described in Part C of Schedule I to this Ordinance.

12. (1) Any person who is qualified to be registered and is registered as a voter shall, subject to the provisions of section 3 of this Ordinance and sub-section (3) of this section, be eligible for election as a member for any electoral area.

Disqualification of candidates.

(2) A person shall be disqualified for election as a member to represent any electoral area if such person—

- (a) has not ordinarily resided in the Colony for at least one period of two years before being nominated as a candidate;
 - (b) is in the permanent employment of the Government or is serving the Government for a term of years;
 - (c) is an employee of any municipality or municipal board;
 - (d) has been convicted of a criminal offence and has been sentenced to imprisonment for a term of six months or more; and has not received a pardon: Provided that the Governor in Council may, by order, in any particular case remove such disqualification;
 - (e) has, within the last twelve months immediately preceding the date of his nomination, received relief from Government funds or from the funds of any local authority;
 - (f) cannot read, write and speak the English language.
- (3) A candidate for election who has undertaken either directly or indirectly himself or by any one in trust for him any contract with a Government department for which the consideration exceeds seventy-five pounds, shall not be disqualified for election provided that, at least fourteen days before the date appointed for the election, he publishes in a newspaper circulating in the electoral area for which he is a candidate a notice of the fact of such contract, giving particulars thereof.

(4) If any elected member after his election undertakes any such contract either directly or indirectly himself or by any one in trust for him, he shall forthwith inform the clerk to the council of the fact of such contract, giving particulars thereof. The clerk shall publish the fact in the Gazette.

(5) The election of any candidate who fails to comply with the provisions of sub-section (3) of this section shall be invalid, the seat shall be deemed to be vacant, and the candidate shall be liable, on conviction, to the penalty prescribed in section 20 of this Ordinance and to the disqualification therein provided.

(6) Any member who fails to comply with the provisions of sub-section (4) of this section shall forfeit his seat, and shall be liable, on conviction, to the penalty prescribed in section 20 of this Ordinance and to the disqualification therein provided.

13. Every candidate for election as a member for any electoral area shall be nominated by being proposed, seconded and supported by not less than seven persons other than the proposer and the seconder. The proposer, seconder and supporters shall be persons registered as voters in the electoral area for which the candidate is nominated.

Candidates to be proposed, seconded and supported.

14. Subject always to the power of the Governor to dissolve the Legislative Council at any time by Proclamation, the Council shall be dissolved on the expiration of a period of four years from the date of each general election and a general election shall thereafter be held on the first convenient date after such dissolution of the Council. For the purposes of this Ordinance the date of a general election shall be the date of the nomination day referred to in section 15 of this Ordinance.

Dissolution and general election.

15. As soon as may be after the dissolution of each Legislative Council the Governor shall, by notice in the Gazette, appoint a convenient day, to be known as nomination day, which shall be not less than twenty-one days after the publication of such notice. In such notice the Governor shall further appoint a place in each of the electoral areas referred to in section 3 of this Ordinance for the nomination of candidates for that electoral area.

Nomination day.

16. A member elected at a general election shall hold his seat, subject to the provisions of this Ordinance, for a period of four years after such general election, or until the dissolution of the Council to which he is elected, whichever is the sooner.

Election to be for four years.

17. (1) The election of members shall be by ballot, and shall be held in accordance with the procedure prescribed by the Rules contained in Schedule III to this Ordinance.

Election Procedure.

(2) Each voter may give one vote only for each of any number of persons not exceeding the number to be elected for the electoral area in which the voter is entitled to vote.

18. Whenever the Governor has appointed a nomination day for any electoral area and no candidate therefor has been nominated in accordance with section 13 of this Ordinance the Governor may, in his discretion, nominate a person or persons who is or are eligible for election in such electoral area to be the member or members, as the case may be, for that electoral area.

Where no candidate nominated.

19. Any person who has been elected as a member for any electoral area may, by writing under his hand, resign his seat.

Resignation of member.

Absence of member.

20. Where an elected member for any electoral area leaves the Colony without resigning his seat, the Governor may nominate any properly qualified person who would be eligible for election in that electoral area to act as member for such electoral area during the absence of such elected member: Provided that, if any elected member shall be absent from the Colony for a period of nine consecutive months, the Governor shall declare his seat to be vacant.

By-election.

21. (1) Whenever, from any cause other than the dissolution of Council, a seat in any electoral area becomes vacant the Governor shall, in manner provided by section 15 of this Ordinance, appoint a day and place for the nomination of candidates for such electoral area and, subject to the provisions of section 18, shall direct that a member be elected to fill the vacancy in accordance with the provisions of this Ordinance and of any Rules made hereunder.

(2) Any member so elected or who has been nominated in accordance with the provisions of section 18 of this Ordinance, shall, subject to the provisions of this Ordinance, hold his seat until the dissolution of the Council to which he is so elected or nominated.

PENAL PROVISIONS.

22. (1) Any person who—

- (a) forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to the returning officer any nomination paper, knowing the same to be forged; or
- (b) forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper; or
- (c) without due authority supplies any ballot paper to any person; or
- (d) not being authorized to do so under the provisions of this Ordinance or of any Rules made thereunder, makes any mark on any ballot paper issued to any person other than to himself; or
- (e) fraudulently inserts into any ballot box any paper other than the ballot paper which he is authorized by law to insert; or
- (f) fraudulently takes out of the polling station any ballot paper; or

Offences.

- (g) without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election; or
- (h) before or during an election, prints, publishes or posts, or causes to be printed, published or posted, any manifesto, bill, placard, or poster, having reference to the election which fails to bear upon the face thereof the name and address of the printer and publisher,

shall be guilty of an offence, and shall on conviction be liable to imprisonment for any term not exceeding six months.

(2) Any attempt to commit any of the offences specified in this section shall be punishable in the same manner in which the offence itself is punishable.

(3) In any prosecution for an offence in relation to nomination papers, ballot boxes, ballot papers, and marking instruments at an election, the property in such papers, boxes and instruments may be stated to be in the returning officer at such election; as well as the property in the counterfoils.

23. (1) Every officer, clerk, and agent in attendance at a polling station shall maintain, and aid in maintaining, the secrecy of the voting in such station, and shall not, before the poll is closed, communicate, except for some purpose authorized by law, to any person any information as to the name or number on the register of any elector who has or has not applied for a ballot paper or voted at that station; or as to the official mark.

Secrecy of ballot.

(2) No such officer, clerk, agent, or any other person shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote or has voted, or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any voter in such station is about to vote or has voted, or as to the number on the back of the ballot paper given to any voter at such station.

(3) Any person who acts in contravention of the provisions of this section shall, on conviction, be liable to imprisonment for any term not exceeding six months.

24. (1) Every officer, clerk, and agent in attendance at the counting of the votes shall maintain, and aid in maintaining, the secrecy of the voting, and shall not attempt to ascertain

Secrecy of ballot.

at such counting the number on the back of any ballot paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular ballot paper.

(2) No person shall directly or indirectly induce any voter to display his ballot paper after such voter has marked the same, so as to make known to any person the name of the candidate for or against whom he has so marked his vote.

(3) Any person who acts in contravention of the provisions of this section shall on conviction be liable to imprisonment for any term not exceeding six months.

Penalment for personation.

25. Any person who, at any election held under the provisions of this Ordinance, applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead or of a fictitious person, or who, having voted once at any such election, applies at the same election for a ballot paper in his own name, shall be guilty of the offence of personation, and shall, on conviction, be liable to imprisonment for a term not exceeding six months.

Penalty for treating.

26. (1) Any person who—

(a) corruptly by himself or by any other person, either before or during an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing, any meat, drink, entertainment, or provision to or for any person, for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at the election;

(b) after an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing any meat, drink, entertainment or provision to or for any person, on account of such person or any other person having voted or refrained from voting, or being about to vote, to refrain from voting at such election,

shall be guilty of treating, and shall be liable on conviction to a fine not exceeding fifty pounds, and shall, for seven years from the date of his conviction, be disqualified from voting at any election under this Ordinance and from being elected a member.

(3) Every voter who corruptly accepts or takes any such meat, drink, entertainment, or provision shall also be guilty of treating, and shall be liable on conviction to the penalty specified in the preceding sub-section, and shall be disqualified as therein provided.

27. Every person who directly or indirectly, by himself or by any other person on his behalf—

Penalty for undue influence.

(a) makes use of or threatens to make use of any force, violence, or restraint, or who inflicts or threatens to inflict, by himself or by any other person, any injury, damage, harm, or loss, upon or against any person in order to induce or compel such person to vote or to refrain from voting, or on account of such person having voted or refrained from voting at any election;

(b) who by abduction, duress, or any fraudulent device or contrivance, impedes or prevents the free exercise of the franchise of any voter, or thereby compels, induces or prevails upon any voter either to give or to refrain from giving his vote at any election,

shall be guilty of undue influence, and shall be liable on conviction to the penalty specified in section 26, and shall be disqualified as therein provided.

28. The following persons shall be deemed to be guilty of bribery, and shall on conviction be liable to the penalty prescribed in section 26, and to the disqualifications therein provided:—

Penalty for bribery.

(a) Every person who directly or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises to procure, or to endeavour to procure, any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter or to or for any other person, in order to induce any voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of such voter having voted or refrained from voting at any election under this Ordinance.

(b) Every person who directly or indirectly, by himself or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers, promises, or

promises to procure or to endeavour to procure, any office, place or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce such voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any voter having voted or refrained from voting at any election under this Ordinance.

- (c) Every person who directly or indirectly, by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement, or agreement, as aforesaid to or for any person in order to induce such person to procure or endeavour to procure the return of any person as a member, or the vote of any voter at any election under this Ordinance.
- (d) Every person who upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement procures or engages, promises, or endeavours to procure the return of any person as a member, or the vote of any voter at any election under this Ordinance.
- (e) Every person who advances or pays or causes to be paid any money to or to the uses of any other person, with the intent that such money or any part thereof shall be expended in bribery at any election under this Ordinance, or who shall knowingly pay or cause to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any such election.
- (f) Every voter who, before or during any election under this Ordinance, directly or indirectly, by himself or by any other person on his behalf, receives, agrees, or contracts for any money, gift, loan, or valuable consideration, office, place, or employment, for himself or for any other person, for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any such election.
- (g) Every person who, after any election under this Ordinance, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or to refrain from voting at any such election.

Provided always that nothing in this section contained shall extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses bona fide incurred in connection with any election. Any money or valuable consideration received by an agent from a candidate in return for his general services as an agent to such candidate shall for the purposes of this proviso be deemed to be legal expenses bona fide incurred.

GENERAL.

29. (1) No election of a member shall be valid if any corrupt practice is committed in connection therewith by the candidate elected. Corrupt practice.

(2) The expression "corrupt practice" as used in this Ordinance means any of the following offences, namely, treating, undue influence, bribery, and personation.

(3) A corrupt practice shall be deemed to be committed by a candidate if it is committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

30. No election shall be invalid by reason of a non-compliance with the rules contained in Schedule III to this Ordinance if it appears that the election was conducted in accordance with the principles laid down in such rules, or that such non-compliance did not affect the result of the election. Non-compliance with Rules.

31. (1) If the validity of an election is brought into question by any person qualified either to be elected or to vote at such election, on the ground of the improper rejection or reception of a nomination or of a vote, or of any corrupt practice in connection with such election, or for any other cause, such person may, at any time within fifteen days of the publication of the result of such election in the Gazette, apply to the Governor in Council to set aside such election. Disputes as to validity of elections.

(2) The Governor in Council shall, after such inquiry, if any, as he may consider necessary, declare by notice in the Gazette, whether the candidate whose election is questioned or any or what other person is duly elected, or whether the election is void.

(3) If the election is declared void, the Governor shall by notification in the manner provided by section 15 of this Ordinance appoint another date for the election of a member for the electoral area concerned.

Cap. 28.

(4) The Governor in Council may appoint any person having judicial experience to be a commissioner to inquire into and report on the grounds on which the validity of any election is brought into question as aforesaid; and every such commissioner shall have all the powers of a commissioner appointed under the Commissions of Inquiry Ordinance or any law amending or replacing the same.

(6) The Governor in Council may, from time to time, make rules for regulating the practice and procedure to be observed in connection with inquiries under this section.

32. (1) The Governor in Council may, from time to time, make rules to supplement the rules contained in Schedules II, III and IV to this Ordinance or to rescind, vary or amend any such rules.

(2) All rules so made shall be published in the Gazette, and shall thereupon, subject to the provisions of the next following sub-section, be as legal, valid, effectual and binding as if they had been enacted in this Ordinance.

(3) All rules made in pursuance of this section shall be laid as soon as conveniently may be before the Legislative Council; and, if a resolution is passed within forty days of their being so laid before the Legislative Council praying that any such rule shall be annulled, such rule shall thenceforth be void, but without prejudice to anything done thereunder.

(4) The Governor in Council may from time to time make rules dispensing with the attendance of voters at an election and providing for the transmission of votes by post or otherwise.

33. The decision of the Governor in Council on any question which may arise as to the intention, construction, or application of this Ordinance and of the rules thereunder shall be final.

34. The Legislative Council Ordinance and all rules made thereunder are hereby repealed; Provided that, notwithstanding such repeal, the existing registers of voters shall be maintained and revised in accordance with the provisions of the Ordinance and Rules repealed by this Ordinance, as if this Ordinance had not been enacted; And provided that if, before the dissolution of the present Legislative Council, the election of any member becomes necessary to fill any vacancy amongst the elected members of the Legislative Council, such election shall be held subject to the provisions of the Ordinance and the Rules repealed by this Ordinance as if this Ordinance had not been enacted.

Power to
supplement
Rules in
Schedules.

Power of
Governor to
decide ques-
tions arising
under
Ordinance.
Cap. 24.

SCHEDULE I.

PART A.

ELECTORAL AREAS.

1. Nairobi North.
2. Nairobi South.
3. Mombasa.
4. Coast.
5. Nyanza.
6. Rift Valley.
7. Trans-Nzoia.
8. Uasin Gishu.
9. Aberdare.
10. Ukamba.
11. Kiambu.

DESCRIPTION OF THE BOUNDARIES OF THE ELECTORAL AREAS.

1. Nairobi, North.

Commencing at the junction of the Gethathuru and Nairobi Rivers;

thence bounded by the Nairobi River down-stream to its junction with the Ngong River;

thence by that river up-stream to its junction with the Kenya and Uganda Railway;

thence by the Kenya and Uganda Railway (up-line) to its intersection with the eastern boundary of Kiambu Native Reserve at Kabete Station;

thence generally northerly, by that Native Reserve boundary to the Gethathuru River;

thence by that river down-stream to the point of commencement.

2. Nairobi, South.

Commencing at the junction of the Kenya and Uganda Railway with the Ngong River;

thence by that river up-stream to its junction with the Mtioni River;

thence by that river up-stream to a bridge on the Nairobi-Ngong Road;

thence by a line northerly to a beacon at the south-western corner of L.R. No. 180 A.B. (Government Farm extension), which beacon is on the Kiambu Native Reserve boundary;

thence generally northerly by that Native Reserve boundary to its intersection with the Kenya and Uganda Railway at Kabete Station;

thence by that railway (down-line) to the point of commencement.

3. Mombasa.

This area comprises the whole of the Island of Mombasa.

4. Coast.

Commencing at the intersection of the Engare Len or Rombo River with the Kenya-Tanganyika boundary;

thence bounded easterly by the northern boundary of Teita Administrative District, as defined by Proclamation No. 54 dated 25th day of February, 1924, to its most eastern corner;

thence north-easterly and north-westerly by the south-eastern and north-eastern boundaries of Kitui Administrative District, as defined in the aforementioned Proclamation, to its most northern corner;

thence by a line north-easterly to a point near the southern end of the Lorian Swamp where the Lak Dera intersects the line of latitude 1° north;

thence easterly by that line of latitude, to its intersection with the western boundary of Italian Somaliland;

thence southerly by a part of the western and south-easterly by the south-western boundary of Italian Somaliland to the shores of the Indian Ocean;

thence generally south-westerly by the shores of the Indian Ocean to its intersection with the Kenya-Tanganyika boundary;

thence north-westerly and generally northerly by the Kenya-Tanganyika boundary to the point of commencement.

All the islands within the Protectorate with the exception of the Island of Mombasa, form part of the Coast Electoral Area.

5. Nyansa.

Commencing at the mouth of the Sio River;

thence bounded north-easterly by the Uganda Protectorate boundary to the highest point of Mount Elgon;

thence by a straight line north-easterly to the source of the Swam (or Soam) River;

thence by that river down-stream to the point where it emerges from the crater;

thence south-easterly by the south-western boundary of the Trans-Nzoia Administrative District, as defined by Proclamation No. 54 dated 25th day of February, 1924, to where the Kabisi and Nzoia Rivers join at the most southerly point of L.R. No. 5336;

thence south-easterly, south-westerly and easterly by part of the generally western boundary of the Uasin Gishu District, as defined by the aforementioned Proclamation, to the trigonometrical beacon Osorongal;

thence by a line bearing 85° 11' for about 17,941 feet to a beacon;

thence bearing approximately 187° 21' for about 5,944 feet to a beacon;

thence bearing approximately 112° 36' for about 2,244 feet to a beacon;

thence bearing approximately 187° 11' for about 8,800 feet to a beacon on the south-eastern of the two summits of the hill "Kalkomor";

thence bearing approximately 176° 11' for about 5,054 feet to a beacon;

thence bearing approximately 161° 34' for about 6,168 feet to a beacon;

thence by a beaconed line bearing 160° 28' for about 18,107 feet to the trigonometrical beacon "Kakaroua";

thence by a straight line, south-easterly to the western corner of L.R. No. 3167;

thence by the south-western boundary of that portion to its southern corner;

thence generally north-easterly and south-easterly by the generally western boundary of the Uasin-Gishu Administrative District, as defined in the aforementioned Proclamation, to the most western corner of L.R. No. 1860;

thence generally southerly by the generally eastern boundary of the Kisumu-Londiani Administrative District, as defined in the aforementioned Proclamation, to the most northern corner of L.R. No. 570/1;

thence south-westerly and south-easterly by the north-western and part of the south-western boundaries of that portion to the northern corner of L.R. No. 7148;

thence southerly and easterly by the western and southern boundaries of that portion to the western corner of L.R. No. 3683;

thence southerly by the western boundaries of L.R. Nos. 9683, 501 and part of the western boundary of 5693 to the northern corner of L.R. No. 1643;

thence south-westerly, south-easterly and easterly by the north-western and south-western boundaries of that portion to its most southern corner;

thence south-westerly, south-easterly, easterly and again south-easterly by the generally western, southern and south-western boundaries of L.R. No. 1649 to the western corner of L.R. No. 1844;

thence south-easterly by part of the western boundary of that portion to its intersection with the eastern boundary of Kericho Administrative District as defined in the aforementioned Proclamation;

thence south-westerly, south-easterly and again south-westerly by the generally eastern and south-eastern boundaries of that district to its most southern corner, on the Amals River;

thence by that river down-stream to its intersection with the Tanganyika boundary;

thence by that boundary north-westerly to the shores of Victoria Nyanza;

thence generally northerly by the shores of that lake to the point of commencement.

The whole of the islands in Victoria Nyanza within the Territorial Waters form part of Nyanza Electoral Area.

6. Itete Valley.

Commencing at the intersection of the Amals River with the Kenya-Tanganyika boundary;

thence bounded by that river up-stream to the most southern corner of Kericho Administrative District as defined by Proclamation No. 54 dated the 25th day of February, 1924;

thence generally north-easterly, north-westerly and again north-easterly by the generally eastern boundary of that district to its intersection with the south-western boundary of L.R. No. 1943;

thence north-westerly by that boundary to the north-western corner of that portion;

thence generally westerly, north-westerly and north-easterly by the southern and generally western boundaries of L.R. No. 1643 to its north-western corner;

thence westerly, north-westerly and north-easterly by the southern, south-western and north-western boundaries of L.R. No. 1643 to its most northern corner;

thence northerly by part of the western boundary of L.R. No. 5693 and the whole of the western boundaries of L.R. Nos. 501 and 9683 to the north-western corner of L.R. No. 9683;

thence south-westerly and northerly by the southern and western boundaries of L.R. No. 7148 to its most northern corner;

thence north-westerly and north-easterly by a part of the south-western and the whole of the north-western boundary of L.R. No. 570/1 to its most northern corner;

thence in a generally northerly direction by the generally eastern boundary of the Kisumu-Mombasa Administrative District, as defined by the aforementioned Proclamation, to the most westerly corner of L.R. No. 1860;

thence north-easterly by the north-western boundary of that portion to the south-western corner of L.R. No. 3841;

thence generally easterly, northerly, south-easterly and again northerly by the generally south-eastern boundary of that portion to the south-eastern corner of L.R. No. 1666;

thence north-easterly and northerly by the generally eastern boundaries of L.R. No. 1886 and L.R. No. 6250 to the north-eastern corner of the latter portion;

thence easterly by the northern boundary of L.R. No. 503 to the intersection of that boundary with the western boundary of Berigo Administrative District, as defined in the aforementioned Proclamation; thence northerly by the western boundary of that district to its most northerly point at Koloia;

thence south-easterly, southerly, south-westerly and again south-easterly by the north-eastern and generally eastern boundary of that district to the most northerly corner of L.R. No. 2689/R;

thence generally south-easterly by the north-eastern boundary of Nakuru Administrative District, as defined by the aforementioned Proclamation, to the south-eastern corner of L.R. No. 2648/R;

thence easterly and generally southerly by part of the northern and the whole of the eastern boundary of the Naivasha Administrative District, as defined in the aforementioned Proclamation, to the south-eastern corner of L.R. No. 369;

thence by a line south-westerly to the most northerly point of Lake Magadi;

thence by the western shores of that lake to its most south-westerly point;

thence by a line south-westerly to the point of intersection of the Southern Usao Nyiro River with the Kenya-Tanganyika boundary;

thence north-westerly by that boundary to the point of commencement;

Provided that the township of Kijabe shall be included within this electoral area (No. 6, Rift Valley).

7. Trans Nzoia.

Commencing at the point where the Swam (Suam) River emerges from the Crater of Mount Elgon;

thence bounded by that river down-stream till it becomes the Turkwel;

thence by that river down-stream to where it enters Lake Rudolf;

thence southerly by the eastern boundary of Turkana Administrative District, as defined by Proclamation No. 54 dated the 25th day of February, 1924, to the falls on the Amaya River (about longitude $36^{\circ} 24'$ east and latitude $0^{\circ} 55'$ north);

thence north-westerly by a part of the south-western boundary of Turkana Administrative District, as defined by the aforementioned Proclamation, to Koloia;

thence generally south-westerly by the eastern and south-eastern boundaries of the West Suk Administrative District, as defined by the aforementioned Proclamation, to the northern corner of L.R. No. 5783;

thence generally south-easterly, south-westerly and north-westerly by the north-eastern, south-eastern and south-western boundaries of the Trans Nzoia Administrative District, as defined by the aforementioned Proclamation, to the point of commencement.

8. Usin Gishu.

Commencing at the trigonometrical beacon Olessee on the Usin Gishu Administrative District boundary as defined by Proclamation No. 54 dated 25th day of February, 1924;

thence bounded in a north-westerly, south-westerly and westerly direction by that Administrative District boundary to the southern corner of L.R. No. 3167;

thence by the south-western boundary of that portion to its western corner;

thence by a straight line north-westerly to the trigonometrical beacon Kakaroua;

thence by a beaconsed line bearing approximately $0^{\circ} 28'$ for about 18,107 feet to a beacon;

thence bearing approximately $341^{\circ} 34'$ for about 6,168 feet to a beacon at the end of a spur;

thence bearing approximately $356^{\circ} 11'$ for about 5,034 feet to a beacon on the south-eastern of the two summits of the hill Kalkomor;

thence bearing approximately $7^{\circ} 11'$ for about 3,800 feet to a beacon;

thence bearing approximately $293^{\circ} 36'$ for about 3,244 feet to a beacon;

thence bearing approximately $7^{\circ} 21'$ for about 5,044 feet to a beacon on the southern boundary of L.R. No. 5598;

thence westerly by parts of that southern boundary and that of L.R. No. 4126 to the trigonometrical beacon Oaorongai on the Usin Gishu Administrative District boundary;

thence by that district boundary westerly, northerly and north-easterly to the northern corner of L.R. No. 2211;

thence generally north-westerly, north-easterly and southerly by part of the south-western and the whole of the northern and eastern boundaries of Marakwet Administrative District, as defined in the aforementioned Proclamation, to the north-eastern corner of the Elgeyo District;

thence southerly and westerly by the eastern and southern boundaries of the Elgeyo Administrative District, as defined in the aforementioned Proclamation, to the north-western corner of L.R. No. 503, Lembus Forest Concession (the Districts of Marakwet and Elgeyo have now been amalgamated under the name of Elgeyo District, *vide* Proclamation No. 8 dated 8th day of February, 1933);

thence southerly by the eastern boundaries of L.R. Nos. 6259 and 1866 to the south-eastern corner of the latter portion;

thence southerly, north-westerly, and again southerly, and westerly by the generally south-eastern boundary of L.R. No. 3841 to its intersection with the Usain Gishu Administrative District boundary;

thence by that district boundary westerly and northerly to the point of commencement.

9. Aberdare.

Commencing at the summit of Niandarawa (Mount Kinangop):

thence bounded northerly by the western boundary of the South Nyeri Administrative District, as defined by Proclamation No. 54 dated 25th day of February, 1924, to the summit of Satimma (12,000 feet);

thence still generally northerly by the western boundary of Laikipia Administrative District, as defined in the aforementioned Proclamation, to the summit of Ol Doinyo Lengere;

thence south-easterly and northerly by part of the south-western and the whole of the eastern boundary of Turkana Administrative District, as defined in the aforementioned Proclamation, to the mouth of the Turkwel River;

thence by a straight line northerly through the summit of North Island to its intersection with the southern boundary of Abyssinia;

thence generally easterly by that southern boundary to its intersection with the north-western boundary of Italian Somaliland;

thence south-westerly by part of the north-western boundary and southerly by part of the western boundary of Italian Somaliland to the intersection of the latter boundary with the line of latitude 1° north;

thence by that line of latitude westerly to its intersection with the Lak Dera near the southern end of the Lorian Swamp;

thence by a line south-westerly to the eastern corner of Meru Administrative District;

thence generally south-westerly by the south-eastern boundaries of Meru and Embu Administrative Districts and westerly by the southern boundary of South Nyeri Administrative District, as defined by the aforementioned Proclamation, to the point of commencement.

10. Ukamba.

Commencing at the junction of Southern Usao Nyiro River with the Tanganyika boundary:

thence bounded by a line north-easterly to the most south-westerly point on Lake Magadi;

thence by the western shores of that lake to its most northerly point;

thence by a line north-easterly to the south-eastern corner of L.R. No. 269;

thence generally easterly by the southern boundaries of Kiambu and Nairobi Administrative Districts, as defined by Proclamation No. 54 dated the 25th day of February, 1924, to the intersection of the latter with the western boundary of the Machakos Administrative District as defined by the aforementioned Proclamation;

thence generally north-easterly by the north-western boundary of Machakos District to the junction of the Athi and Ndarugu Rivers;

thence by the latter river up-stream to the south-western corner of original L.R. No. 290;

thence north-easterly and south-easterly by the north-western and part of the north-eastern boundary of that portion to the south-western corner of original L.R. No. 295;

thence north-easterly, north-westerly and again north-easterly by the generally western boundary of that portion to its intersection with the Ghania River;

thence north-westerly and northerly by the south-western boundary of the Fort Hall Administrative District, as defined by the aforementioned Proclamation, to the summit of Niandarawa (Mount Kinangop);

thence generally easterly by the generally northern boundary of Fort Hall Administrative District to the most eastern corner of L.R. No. 1022;

thence north-easterly by a part of the north-western boundary of Kitui Administrative District, as defined by the aforementioned Proclamation, to its most northern corner;

thence south-easterly and south-westerly by the whole of the north-eastern and south-eastern boundaries of that district to the north-eastern corner of the Teita District as defined by the aforementioned Proclamation;

thence westerly by the northern boundary of that district to its intersection with the Tanganyika boundary;

thence by that boundary north-westerly to the point of commencement.

11. Kiambu.

Commencing at the south-eastern corner of L.R. No. 369;

thence bounded generally northerly by a part of the generally eastern boundary of the Naivasha Administrative District as defined by Proclamation No. 54 dated 25th day of February, 1924, to the eastern point of L.R. No. 5237 on the Chania River;

thence by that river (which forms a part of the south-western boundary of the Fort Hall Administrative District) down-stream to the north-western corner of original L.R. No. 295;

thence south-westerly, south-easterly and again south-westerly by the generally north-western boundary of that portion to its intersection with the north-eastern boundary of original L.R. No. 290;

thence north-westerly and south-westerly by a part of the north-eastern and the whole of the north-western boundary of that portion to its western corner on the Ndarugu River;

thence by that river down-stream to its junction with the Athi River;

thence south-westerly by the north-western boundary of Machakos Administrative District to the intersection of the north-western boundary of L.R. No. 387 (Athi Township Reserve) with the Athi River;

thence generally westerly by the generally southern boundaries of Nairobi and Kiambu Administrative Districts to the point of commencement;

Provided that the township of Kijabe be excluded from this electoral area (No. 11, Kiambu):

Provided that Electoral Areas No. 1, Nairobi North, and No. 2, Nairobi South, shall be excluded from this electoral area (No. 11, Kiambu).

PART B.

Electoral Areas.

1. The Central electoral area shall include the following districts:—

Nairobi, Fort Hall, South Nyeri, North Nyeri, Embu, Meru, Thika, Kiambu, Northern Frontier.

2. The Eastern electoral area shall include the following districts:—

Digo, Mombasa, Kilifi, Tana River, Lamu, Machakos, Kitui, Teita.

3. The Western electoral area shall include the following districts and all the other districts in the Colony which are not specially mentioned in the Central or Eastern electoral areas:—

Masai, Naivasha, Laikipia, Nakuru, Ravine, Baringo, Nandi, Uasin Gishu, Elgeyo, Trans Nzoia, Central Kavirondo, North Kavirondo, South Kavirondo, Kisumu-Londiani, Kericho, Turkana and West Suk.

PART C.

The Colony and Protectorate.

SCHEDULE II.

RULES FOR THE PREPARATION OF REGISTERS OF VOTERS.

1. (1) When it is necessary to prepare a new register for any electoral area, the Colonial Secretary shall publish a notice in the Gazette calling upon all persons residing in such area who are desirous of having their names registered in the register for such electoral area to forward their claims, within forty-two days from the date of the publication of the notice, to the registering officer appointed for such electoral area.

Notice inviting claims of voters.

(2) In the case of registers for any of the electoral areas described in Part A of Schedule I to the Ordinance, every claim shall be made in the Form A appended to these Rules.

(3) In the case of registers for any of the electoral areas described in Part B of Schedule I to the Ordinance, every claim shall be made in the Form B appended to these Rules.

(4) In the case of the register for the electoral area described in Part C of Schedule I to the Ordinance, every claim shall be made in the Form C appended to these Rules.

(5) Every claim shall be signed by the claimant.

Preparation of register of voters.

3. (1) Upon the expiration of the aforesaid period of forty-two days the registering officers of the electoral areas concerned shall prepare a separate register for each of the electoral areas in respect of which the notification has, under sub-Rule (1) of Rule 1 of these Rules, been published.

(2) In preparing the register, the registering officer shall classify the names of all voters into alphabetical divisions in accordance with the initial letter of the surname of each voter. The registering officer shall then allot a serial number to each name registered. The first serial number shall, in the case of each alphabetical division, be unity. The alphabetical letter of the division together with such serial number shall form the serial number of the voter, and is hereinafter so referred to.

Notice of completion of registers.

3. On the completion of the registers, copies thereof shall be forwarded by the registering officers to the Colonial Secretary who shall cause the registers to be published in the Gazette. The Colonial Secretary shall, at the time of publication, give notice in the English language in the principal newspapers circulating in the Colony that copies of the registers have been published as aforesaid; and that the registers, or copies thereof, are open for inspection at all reasonable hours of the day at the offices of the registering officers of the several electoral areas, and at such other places, if any, as shall be specified in the notice.

Claims and objections.

4. (1) (a) Every person who is qualified to have his name entered on the register for any electoral area and whose name is omitted from such register, who claims to have it inserted therein may apply to the registering officer for such electoral area to have his name so inserted.

(b) For the purpose of this Rule the words "omitted from such register" shall be deemed to include the name of any person who is registered in one electoral area and who has qualified by residence to have his name inserted in the register for another electoral area.

(2) Every person whose name appears in the register for any electoral area and who objects to the name of any other person or to his own name appearing therein may apply to the registering officer for such electoral area to have such name expunged from the register.

(3) (a) An application under sub-Rule (1) or sub-Rule (2) of this Rule shall be made in writing not later than four weeks after the date of the publication of the register in the Gazette, and shall set out the grounds of the application and shall give an address for the receipt of notices.

(b) Such application shall be accompanied by the sum of two shillings and fifty cents which shall be returned to the applicant by the registering officer after the claim or objection, as the case may be, has been heard as provided in sub-Rule (4) of this Rule. Provided that, if the application is, in the opinion of the registering officer, frivolous or vexatious such sum shall be forfeited to His Majesty.

(4) The registering officer shall inquire into all claims and objections in open court and shall give ten days' notice of such inquiry by posting a written hearing notice to each applicant and to each person objected to, and by affixing a similar notice on some conspicuous part of the court.

(5) (a) As soon as possible after the said inquiry the registering officer shall insert in the register and allot a serial number to the name of any applicant whose claim to have his name so inserted has been proved to the satisfaction of the registering officer, and shall expunge from the register the name of any person who has been proved to the satisfaction of the registering officer to be disqualified from having his name retained in the register.

Provided that no name, to which an objection has been raised under this Rule, shall be expunged from the register unless the applicant appears at the inquiry in person, or by a representative duly authorized by him in writing, in support of his objection and proves to the satisfaction of the registering officer that the person in respect of whom he has raised the objection is disqualified from having his name retained in the register.

(b) The registering officer shall as soon as possible forward a list of the names together with the serial numbers, so inserted in or expunged from the register, as the case may be, to the Colonial Secretary who shall cause such list to be published in the Gazette.

(c) The registering officer shall, at the time of entering in the register the name and serial number of any person to whom paragraph (b) of sub-Rule (1) of this Rule applies, notify in writing the registering officer for the electoral area in which such person formerly resided and is registered, and

such notification shall be sufficient authority for the registering officer to whom it is addressed to expunge from the register the name of such person.

Appeal from decision of registering officer.

5. (1) If any applicant under Rule 4 of these Rules is dissatisfied with the decision of the registering officer, he may, within ten days from the date thereof, appeal to the revising officer.

(2) Every such appeal shall be in writing and shall state shortly the ground of appeal.

(3) The revising officer shall hear the appeal at such time and at such place as to him may seem fit. Provided that he shall in writing give ten days' notice of the hearing of the appeal to the applicant and to the person objected to, as the case may be.

(4) When the revising officer has determined all the appeals which have been lodged with respect to any register, he shall forward to the registering officer concerned and to the Colonial Secretary a statement under his hand of the names and serial numbers which he has decided shall be inserted in or expunged from the register, and the Colonial Secretary shall cause such statement to be published in the Gazette.

(5) There shall be an appeal from the decision of the revising officer to the Supreme Court.

Certification of register.

6. Within a period of ten days after the publication of the statement in the Gazette as prescribed in sub-Rule (4) of Rule 5 of these Rules, the registering officer shall certify the register in the following form:

I, the Registering Officer for the Electoral Area of hereby certify that this register is the register of voters for the said electoral area as and at the date of this certificate.

Station.....

Date Signature.....

ANNUAL REVISION OF VOTERS.

Notice inviting claims.

(1) On or before the thirty-first day of December in every year the Colonial Secretary shall publish a notification in the Gazette calling upon all persons desirous of having their names inserted in the register for any electoral area to forward their claims to the registering officer for such area. Such claims must reach the registering officer before the first day of September in that year; next following the year in which the notification was published.

(2) If any claim is received on or after the first day of September such claim shall not be considered for the revision in respect of which it was made, but shall be placed on record and receive consideration when the next annual revision is undertaken.

(3) Every registering officer shall, not later than thirty days after the said first day of September, prepare a revised register, comply with the provisions of Rule 3 of these Rules and forward a copy of the revised register to the Colonial Secretary together with a list of all names which have been inserted in or expunged from the register, as the case may be.

Preparation of revised registers.

(4) In preparing such registers the registering officers shall include the names of all persons who appear to be entitled to have their names inserted therein, and shall expunge from the registers the name of any person who is dead or who has become disqualified or who has permanently left the electoral area or who has not resided in the electoral area within the preceding twelve months. The registering officer shall also correct any mistake or supply any omission which appears to him to have been made in the register. It shall be the duty of the registering officer to post to each person, whose name has been expunged from the register under the provisions of this Rule on the ground that such person has become disqualified or has left the electoral area or has not resided in the electoral area within the preceding twelve months, an intimation that his name has been so expunged.

(5) The Colonial Secretary shall as soon as possible after the receipt of the registers cause copies thereof to be published in the Gazette, together with a list of all names of persons which have been inserted in and expunged from the register; and notice shall be given in the principal newspapers circulating in the Colony that copies of the register, and of the list of names so inserted and expunged, have been published as aforesaid, and that registers, or copies thereof, are open

Claims and objections with regard to revised register.

for inspection at all reasonable hours of the day at the offices of the registering officers of the several electoral areas, and at such other places, if any, as shall be specified in the notice. Such notice shall include a short statement as to the manner in which and the time within which claims and objections may be made.

9. (1) Claims and objections may be made with regard to the revised registers in manner provided by Rule 4 of these Rules and within the time therein prescribed. Such claims shall be heard and determined by the registering officer in the manner provided by the said Rule.

(2) Appeals may be made to the revising officer from the decision of the registering officer in the manner prescribed by Rule 5 of these Rules and the revising officer, the registering officer and the Colonial Secretary shall respectively proceed as therein provided.

(3) There shall be an appeal from the decision of the revising officer in any case to the Supreme Court.

(4) The registering officer shall certify the revised registers within the period and in manner provided by Rule 6 of these Rules, and the registers so certified shall come into operation on the date of such certification and shall continue in operation until superseded by other revised registers.

Form A.

To the Registering Officer of the Electoral Area of.....

I claim to have my name inserted in the list of persons entitled to vote for the election of a member to represent the Electoral Area.

Name in full (in block capitals).

Husband's name (if married).

Residential address.

Postal address.

Passport number, if any.

Occupation.

I hereby certify that I am qualified to have my name inserted in the register of voters for the above area, and that I do not suffer from any of the disqualifications set out in section 9 of the Legislative Council Ordinance, 1935.

Date.....

Signature or thumb print
mark of Applicant.

(Print section 9 of the Ordinance on the back of the Form).

Form B.

To the Registering Officer,

The Indian Electoral Area.

I claim to have my name inserted in the list of persons entitled to vote for election of the Indian Members to represent the Indian Electoral Area :

Name in full.

Surname (if any).

Father's name in full.

In case of married women or widows, husband's name in full.

Address (Residential and Postal).

Occupation.

Number and date of passport, or driving licence, or poll tax receipt, or trading licence, or birth certificate.

I hereby certify that I am qualified to have my name inserted in the register of voters for the above area and that I do not suffer from any of the disqualifications set out in section 9 of the Legislative Council Ordinance, 1935, of which been read by me.

I have full knowledge, the same having been explained to me as reproduced on the reverse of this form.

.....
Signature or thumb print
mark of Applicant.

(Print section 9 of the Ordinance on the back of the Form).

FORM C

To the District Commissioner,

I claim to have my name inserted in the list of persons entitled to vote for the election of an Arab Member of the Legislative Council.

Name in full.

Address and occupation.

Questions to be answered by the Applicant.

- (1) State nationality.
- (2) State age.
- (3) Have you been convicted of a criminal offence and sentenced to imprisonment for a term of 12 months or more? If so, have you received a pardon?

If imprisoned when did such imprisonment expire?

- (4) Have you received relief from Government funds or from the funds of any local authority within 12 months of your application?

- (5) Have you been declared bankrupt or insolvent by a competent court in the Colony or elsewhere and not received your discharge?

- (6) When did you first enter the Colony.

- (7) Can you write Arabic or Swahili in Arabic characters?

Signature or thumb print
mark of Applicant.

SCHEDULE III.

RULES FOR THE ELECTION OF MEMBERS.

1. Any person not ineligible for election may be nominated as a candidate for election.

2. (1) Each candidate shall be nominated by means of a separate nomination paper, signed by not less than nine persons, whose names are on the register of voters for the electoral area for which the candidate seeks election, as proposer, seconder and supporters, each of whom shall certify that in his opinion such candidate has such a knowledge of the English language as will enable him to take part in the proceedings of the Council.

(2) The signatures of the proposer and seconder and supporters shall be witnessed by a magistrate, justice of the peace, commissioner for oaths, or by a notary public.

(3) Every nomination paper shall be in the Form A annexed to these Rules and shall be accompanied by a deposit of one thousand shillings.

3. The returning officer shall, at any time between the date of the notification published under section 15 of the Ordinance and before the hour of 12 noon on nomination day, supply a nomination paper to any registered voter who applies for one.

4. (1) Every nomination paper subscribed and witnessed as aforesaid and accompanied by the deposit prescribed in sub-Rule (3) of Rule 2 of these Rules shall be delivered to the returning officer by the candidate or by his proposer or seconder between the hours of 9 a.m. and 12 noon on the day and at the place appointed for the nomination of the candidates.

(2) Nomination papers which are delivered after the hour of 12 noon shall be rejected.

5. On the day appointed for the nomination of a member for any electoral area, every candidate and his proposer, seconder and one other person selected by the candidate, and no persons other than the aforesaid, shall, except for the purpose of assisting the returning officer, be entitled to attend the proceedings during the time appointed for nomination.

Examination of nomination papers.

6. The returning officer shall permit the candidates and their proposers and seconders and the person, if any, selected by the candidate as aforesaid, to examine the nomination papers of candidates which have been received for the electoral area concerned.

Description of candidates in nomination papers.

7. (1) Each candidate shall be described in the nomination paper in such manner as, in the opinion of the returning officer, is calculated sufficiently to identify such candidate.

(2) No objection to a nomination paper on the ground that the description of the candidate therein is insufficient or that the nomination paper is not in accordance with these Rules shall be allowed or deemed to be valid, unless such objection is made by the returning officer or by some other person within one hour after the time of delivery of the nomination paper.

(3) The decision of the returning officer as to the sufficiency or validity of any nomination paper shall be final.

Where candidates unopposed.

8. If at 12 noon on the day appointed as the nomination day for any electoral area, candidates not exceeding the number to be elected for that electoral area are nominated, the returning officer shall forthwith declare such candidates to be elected, and shall report such election to the Colonial Secretary, who shall cause a notification of such result to be published in the Gazette.

Withdrawal of candidate.

9. A candidate may, before 12 noon on nomination day but not afterwards, withdraw from his candidature by giving a notice to that effect signed by him to the returning officer.

Where candidates are opposed.

10. If more candidates than the number to be elected are duly nominated for any electoral area the returning officer shall adjourn the election for the purpose of taking a poll, and shall report to the Governor the names of the candidates as described in their respective nomination papers.

Notice that poll will be taken.

11. Upon receipt of such report the Governor shall cause to be published in the Gazette and also in such local newspapers as he may think fit, a notice specifying:—

- (a) The electoral area for which a poll will be taken.
- (b) The date or dates on which the poll will be taken, which shall not be sooner than fourteen days after the date of publication under this Rule of the notice in the Gazette.

(c) The names of the candidates as described in their respective nomination papers and the names of their proposers and seconders and supporters; and

(d) The places at which a poll will be taken, and the portion of the electoral area allotted to each polling station:

Provided that where the electoral area is an area described in Part B of Schedule I to the Ordinance the Governor shall cause a symbol of identification to be allotted to each candidate, and, when publishing the names of the candidates as provided in paragraph (c) of this Rule, shall publish together with such names a facsimile of the symbol allotted to each candidate.

12. If, after an election has been adjourned for the purpose of taking a poll, one of the candidates nominated dies before the poll has commenced, the Governor shall, upon being satisfied of the fact of such death, countermand the notice for the poll, and shall appoint in manner prescribed by section 21 of the Ordinance, a fresh date for the election. In such case all proceedings with reference to the election shall be re-commenced: Provided that no new nomination shall be required in respect of a candidate who had been duly nominated at the time of the countermand of the poll.

Death of candidate before poll taken.

13. The Governor shall appoint a person (in these Rules called a "presiding officer") to preside at each polling station. Such presiding officer shall be supplied with a copy of the register of voters containing the names of voters in the area assigned to his polling station.

Presiding officer.

14. The Governor may appoint at each polling station one or more deputy presiding officers, one of whom, to be selected by the presiding officer, shall act as presiding officer in the event of illness or unavoidable absence of the presiding officer. A deputy presiding officer when so acting shall exercise all the powers and perform all the duties of the presiding officer under these Rules.

Deputy presiding officers.

15. No person shall be admitted to vote at any polling station except the one allotted to him.

Restriction of voting to proper polling stations.

16. Unless the Governor, by notification in the Gazette, appoints any other hour, the poll shall open at 8 a.m. and shall close at 6 p.m. on the same day.

Time for opening and closing poll.

Duty of presiding officers.

17. The presiding officer shall keep order in his station, and shall regulate the number of electors to be admitted at a time, and shall exclude all other persons, except the clerks, the candidates, the agents of the candidates and the police officers on duty.

Form of ballot papers.

18. (1) Each ballot paper for use in connection with the election of a member for the electoral areas described in Part A of Schedule I to this Ordinance shall be capable of being folded up and shall—

- (a) contain a list of the candidates as described in their respective nomination papers;
- (b) have a number printed on the back thereof;
- (c) have attached a counterfoil on which shall be printed the same number as appears on the back of the ballot paper;
- (d) be printed so that the name of each candidate is adjacent to the square in which the voter is to record his vote; and
- (e) shall, so far as is possible, be in the Form B annexed to these Rules.

(2) Each ballot paper for use in connection with the election of members for the electoral areas described in Part B of Schedule I to the Ordinance shall be capable of being folded up and shall—

- (a) contain a list of the candidates as described in their respective nomination papers together with the symbol of identification allotted to each candidate in accordance with the proviso to Rule 11 of these Rules. The names of the candidates shall be printed in English, Gujarati, Urdu, Gurmukhi and Hindi;
- (b) have a number printed on the back thereof;
- (c) have attached a counterfoil on which shall be printed the same number as appears on the back of the ballot paper;
- (d) be printed so that the name and symbol of identification of each candidate is adjacent to the square in which the voter is to record his votes; and
- (e) shall, so far as is possible, be in the Form C annexed to these Rules.

Ballot boxes.

19. (1) Every ballot box shall be so constructed that the ballot papers can be inserted therein, but cannot be withdrawn therefrom without the box being unlocked.

(2) The presiding officer shall, immediately before the commencement of the poll, show the empty unlocked ballot box to such persons, if any, as may be present in the polling station, so that they may see that it is empty. The presiding officer shall then lock the ballot box and place his seal upon it in such a manner as to prevent it being opened without breaking the seal; and shall place it in his view for the receipt of ballot papers, and keep it so locked and sealed.

Closing of ballot box.

20. (1) Immediately before a ballot paper is delivered to a voter it shall be marked on both sides with an official mark, either stamped or perforated.

Delivering of ballot papers to voters.

(2) The serial number, name and description of the voter, as stated in the copy of the register of voters, shall then be called out, and the serial number of such voter shall be marked on the counterfoil, and a mark shall be placed in the register against the number of the voter to denote that he has received a ballot paper.

21. (1) The voter on receiving the ballot paper shall forthwith proceed to a place screened from observation, which shall be provided by the presiding officer, and there mark his paper by placing the mark X (and no other mark, writing or signature) opposite the name or names of the candidate or candidates, as the case may be, whom he selects.

Manner of voting.

(2) The voter shall then fold the ballot paper so as to conceal his vote, and insert the ballot paper so folded, into the ballot box.

(3) He shall vote without undue delay, and shall quit the polling place as soon as he has inserted his ballot paper into the ballot box.

22. A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used as ballot paper may, on delivering to the presiding officer the ballot paper so inadvertently dealt with and proving the fact of the inadvertence to the satisfaction of the presiding officer, obtain another ballot paper in the place of the ballot paper so delivered up (in these Rules called a "spoilt ballot paper"), and the spoilt ballot paper shall be immediately cancelled.

Spoilt ballot papers.

23. If any voter states that he is illiterate or is unable to mark his ballot paper, the presiding officer shall—

Provision for illiterate.

(a) cause the ballot paper of such voter to be marked as the elector directs, and then insert the ballot paper in the ballot box; and

(b) write in the register opposite the name of such voter a statement of the fact that the ballot paper was marked by him at the request of the voter, and the reason therefor.

Application for voting paper in name of person who has already voted.

34. (1) If a person representing himself to be a particular voter named in the register of voters applies for a ballot paper after another person has voted as such voter, the applicant shall, upon marking and subscribing a declaration in the form provided in this Rule, be entitled to mark a ballot paper in the same manner as any other voter.

(2) Such ballot paper (in these Rules called a "tendered ballot paper") shall be of a colour different from the other ballot papers, and, instead of being put into the ballot box, shall be given to the presiding officer and endorsed by him with the name of the voter, and his serial number in the register of voters.

(3) Such ballot papers shall be set aside in a separate packet and shall not be counted by the returning officer.

(4) The name of the voter and his serial number on the register shall be entered on a list in these Rules called the "tendered votes list".

Form of Declaration.

I, A.B., of solemnly and sincerely declare that I am the same person whose name appears as A.B., No. in the register of voters in force for the electoral area of

Witness: O.D.

Presiding Officer.

(Signed) A.B.

25. No person other than the returning officer, presiding officer, or a deputy presiding officer shall have any communication whatsoever with a voter while such voter is in a polling station for the purpose of receiving a ballot paper and recording his vote thereon. Should any such communication take place, the presiding officer may order such person to leave the polling station.

26. The presiding officer of each polling station shall, as soon as practicable after the close of the poll, in the presence of the agents (if any) of the candidates, make up into separate packets, seal with his own seal and the seals of the agents of the candidates who desire to affix their seals—

Despatch of ballot boxes, etc. to returning officer.

(a) the ballot box unopened, but with the key attached;

(b) the unused and spoiled ballot papers placed together;

(c) the marked copies of the register of voters and the counterfoils of the ballot papers; and

(d) the packet containing the tendered ballot papers and the tendered votes list.

and shall despatch or hand over such packets and ballot box to the returning officer.

Counting Votes.

27. (1) The returning officer shall make arrangements for counting the votes as soon as practicable after he has received all the ballot boxes relating to any electoral area, and for that purpose shall give notice in writing of the time and place at which he will begin to count the votes.

Notice of time for counting votes.

(2) Each candidate and his agent shall have the right to be present at the counting of the votes.

28. Any ballot paper which has not on its back an official mark, or on which, in the case of an election of one member for any electoral area, votes are given to more than one candidate, or on which, in the case of an election of two members for any electoral area, votes are given to more than two candidates, or on which anything except the number on its back is written or marked by which the vote can be identified shall be void and shall not be counted.

Rejection of ballot papers.

29. The returning officer shall endorse "rejected" on any ballot paper which he may reject as invalid.

Marking rejected ballot papers.

30. The returning officer shall not open the sealed packet of tendered ballot papers, but shall retain the same, unless such packet is required for the purposes of an inquiry under section 31 of the Ordinance.

Tendered ballot papers.

31. The decision of the returning officer as to any question arising in respect of any ballot paper shall be final.

Finality of decision of returning officer.

Declaration of poll.

32. When the counting of the votes has been completed, the returning officer shall, in the case of the election of one member for any electoral area, declare the candidate to whom the greatest number of votes has been given to be elected, and in the case of the election of two members for any electoral area, declare the candidate to whom the greatest number of votes has been given, and the candidate to whom the next greatest number of votes has been given, to be elected:

Provided that, upon the application of any candidate or of the agent of such candidate, one recount as of right or as many subsequent recounts as to the returning officer may seem reasonable, shall be made before the returning officer makes the declaration.

Equality of votes.

33. When an equality of votes is found to exist between any candidates, and the addition of a vote would entitle any one of the candidates to be declared elected, the determination of the candidate to whom such one additional vote shall be deemed to have been given shall be made by lot in the presence of the returning officer in such manner as he shall think fit.

Disposal of ballot papers.

34. The returning officer shall, upon the completion of the counting and after he has declared the result, seal up the voting papers and all other documents relating to the election, and shall retain the same for a period of six months, and thereafter, unless otherwise directed by an order of the Governor, cause them to be destroyed.

Refund of deposit.

35. The returning officer shall as soon as may be convenient to him refund to each candidate the deposit of one thousand shillings made in accordance with the provisions of sub-Rule (3) of Rule 2 of these Rules: provided that, should any candidate fail to obtain one-eighth of the total votes polled for the electoral area for which he was a candidate for election, such deposit shall be forfeited to His Majesty: Provided further that the Governor may, in any case where he considers that the forfeiture of the deposit would cause hardship, order that such deposit be refunded to the candidate.

Publication of election.

36. The returning officer shall without delay report the result of the election to the Governor who shall cause the name of the member elected, or the names of the members elected, as the case may be, to be published in the Gazette.

FORM A. (RULE 2 (3)).

Nomination Paper for Electoral Area.

1. Name in full of candidate.
2. Address.
3. Occupation.
4. Name of proposer.
5. Name of seconder.
6. Names of supporters.

We the undersigned proposer, seconder and supporters hereby certify that the above-named candidate has such a knowledge of the English language as will enable him to take part in the proceedings of the Council.

Signed by the above named..... (proposer)

in my presence this day of 19.....

A.B. (a Magistrate, Justice of the Peace, Commissioner for Oaths, or a Notary Public).

Signed by the above named..... (seconder)

in my presence this day of 19.....

C.D. (a Magistrate, Justice of the Peace, Commissioner for Oaths, or a Notary Public).

Handed in at..... a.m. on the day of 19.....

To be followed by witnesses of signatures of supporters

*Here insert description of electoral area.

No. XXVI

Legislative Council

1935

FORM B (RULE 18 (1)).

Number
THE COLONY AND PROTECTORATE OF KENYA
The Leg. Co. Ord., 1935

FORM B

BALLOT PAPER

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THE COLONY AND PROTECTORATE OF KENYA

THE LEGISLATIVE COUNCIL ORDINANCE, 1935

Form B (Rule 18 (1) of Sch. III of the Ordinance)

BALLOT PAPER

(The Electoral Area)

1 A.B.
2 O.D.

Official Mark

(P.T.O.)

[RACE]

Number (to correspond to the number on the counterfoil)

BALLOT PAPER

Official mark

Election for the Electoral Area of

Date

41

CCG

1935

Legislative Council

IV. 1935

No. XXVI

FORM C

Form C

Rule 18 (2) of Sch. III of the Ord.

THE COLONY AND PROTECTORATE OF KENYA

THE LEGISLATIVE COUNCIL ORDINANCE, 1935

THE INDIAN ELECTORAL AREA

BALLOT PAPER

| Name | Symbol of Identification |
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| 2. O.D. | |
| 3. E.F. | |
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Official mark

(P.T.O.)

Serial No.

Serial No.

BALLOT PAPER

THE COLONY AND PROTECTORATE OF KENYA

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Election for the Indian Electoral Area

The Legislative Council Ordinance, 1935
THE INDIAN ELECTORAL AREA

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SCHEDULE IV.

Voting by Post Ballois.

1. (1) In any election of a member under the provisions of the Legislative Council Ordinance, 1935, any elector who satisfies a District Commissioner either orally or in writing—

- (a) that he resides at least ten miles from the nearest polling station at which he is entitled to vote; or
- (b) that he has reasons to believe that on the polling day he will not be within ten miles of the polling station at which he is entitled to vote; or
- (c) that on account of ill-health and infirmity he will be prevented from voting.

may apply to the said District Commissioner for a postal ballot paper.

(2) Such application shall be in writing, shall contain the serial number of the voter, as it appeared in the Gazette, and shall be signed by the voter.

(3) The signature thereto shall be certified by a district officer, justice of the peace or commissioner for oaths, if the applicant is within the Colony, or by a notary public or commissioner for oaths if the applicant is not within the Colony.

2. (1) If the District Commissioner is satisfied as to the applicant's right to vote he shall furnish him with a postal ballot paper.

(2) If the District Commissioner is not satisfied as to the applicant's right to vote, he shall give the applicant notice that he is not so satisfied, and that the applicant should attend personally at the proper polling station to record his vote.

(3) If the applicant is not within the Colony, such ballot paper may be posted to him by air mail should the applicant so request and should the necessary postal charges therefor be tendered by such applicant at the time of his application.

3. Each postal ballot paper shall, so far as is possible, conform to the forms annexed to Schedule III to the Ordinance and shall, in addition, have a number marked on the back corresponding to the registered serial number of the voter to whom it is issued, and shall have the same serial number marked on the face of the counterfoil. The counterfoil shall contain a space for the voter's signature and for the signature of the witness thereto as provided for by these Rules, and shall be capable of being folded up so that the counterfoil shall be visible.

4. (1) The District Commissioner shall inform the returning officer of the electoral area for which the applicant is registered as a voter of the fact that a postal ballot paper has been sent to such applicant and shall, at the same time, forward to the returning officer the written application of the said applicant.

(2) The returning officer shall, if possible, before the ballot notify the presiding officer at every polling station at which the register on which the applicant's name appears is used, the fact of the issue of such ballot paper.

5. (1) A voter who has applied for and obtained a postal ballot paper shall, in order to record his vote, produce the same, if the voter is within the Colony, to any postmaster, magistrate, commissioner for oaths or justice of the peace (other than a candidate for election for the electoral area in which the voter is registered) or, if the voter is not within the Colony, to a notary public or commissioner for oaths. Such voter shall then mark such paper by placing the mark X opposite the name of the candidate or candidates, as the case may be, for whom he votes, but so that the postmaster, magistrate, commissioner for oaths, justice of the peace or notary public, as the case may be, shall not see such mark. No other mark, writing, or signature save as herein provided shall be placed by the voter on the postal ballot paper. The voter shall then fold the postal ballot paper so as to conceal his vote, and shall sign his name thereon, in the place provided on the counterfoil, in the presence of the postmaster, magistrate, commissioner for oaths, justice of the peace or notary public, as the case may be, who shall witness such signature. For the purposes of this Rule, the term "postmaster" shall mean any person who is authorized by the Postmaster General to be in charge of a post office.

(2) If the voter is within the Colony he shall then enclose the ballot paper in the envelope provided and hand it to the postmaster, magistrate, commissioner for oaths, or justice of the peace, as the case may be, who shall post the ballot paper or deliver it personally to the returning officer as soon as possible.

(3) If the voter is not within the Colony he shall enclose the ballot paper in the envelope provided and post or otherwise transmit it to the returning officer as soon as possible.

(4) The returning officer for the area in which the voter is registered on the receipt of an envelope containing a postal ballot paper shall keep the same until the close of the poll.

6. At the count of the poll the returning officer shall produce unopened all envelopes containing ballot papers received by him before the close of the poll, and shall open such envelopes in the presence of a presiding officer or deputy presiding officer of the electoral area concerned.

7. (1) The returning officer shall then produce all applications for postal ballot papers and, without unfolding the postal ballot paper or allowing it to be inspected, compare the signature of the voter on the counterfoil of the postal ballot paper with the signature on the application, and shall allow the presiding officer or deputy presiding officer referred to in Rule 6 of these Rules to inspect the signatures. The returning officer shall determine whether or not the signature on the counterfoil of the postal ballot paper is that of the applicant.

(2) If the postal ballot paper is allowed by the returning officer, he shall tear off the counterfoil containing the voter's name and, without looking at the name of the candidate for whom the voter has voted, shall insert the folded postal ballot paper in a special ballot box provided for the reception of postal ballot papers. When all such postal ballot papers have been so inserted in such ballot box the counting of the votes so recorded therein shall commence.

(3) The list of the numbers of votes received by each candidate shall show separately the votes tendered personally and the votes tendered by postal ballot papers.

8. If a postal ballot paper is filled up or otherwise dealt with in a manner contrary to that provided by these Rules, the returning officer shall disallow such postal ballot paper, and the vote shall not be counted.

9. If the returning officer disallows any postal ballot papers, such postal ballot papers shall be enclosed in a sealed packet, which the returning officer shall retain in his custody unless it is required for the purposes of any inquiry under the Ordinance.

10. The returning officer's decision in respect of any postal ballot paper shall be final.

11. Any person who attempts to induce any person in his employ to obtain a postal ballot paper with the intention of influencing such last-mentioned person by bribery or intimidation to record his vote in favour of any particular candidate shall be liable on conviction to a penalty not exceeding seventy-five pounds.

Passed in the Legislative Council the third day of August, in the year of our Lord one thousand nine hundred and thirty-five.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council and is presented for authentication and assent as a true and correct copy of the said Bill.

J. F. G. TROUGHTON

Acting Clerk of the Legislative Council.

11/65

R E P O R T
OF
THE SELECT COMMITTEE OF LEGISLATIVE COUNCIL
APPOINTED TO CONSIDER AND REPORT UPON THE
PROVISIONS OF A BILL TO PROVIDE FOR THE
NOMINATION AND ELECTION OF MEMBERS TO
THE LEGISLATIVE COUNCIL OF THE COLONY
AND PROTECTORATE OF KENYA

Your Excellency

We, the members of the Select Committee of Legislative Council appointed to consider and report upon the provisions of the above Bill, have the honour to recommend that the Bill be amended in the following respects -

1. That Clause 1 be deleted and the following be substituted therefor -

"Short title
and
commencement.

1. This Ordinance may be cited as the Legislative Council Ordinance, 1935, and shall come into force on such date as the Governor may, by proclamation, appoint."

2. That paragraph (4) of Clause 9 be amended by deleting therefrom the words "a term of" where they first occur in the second line thereof.

3.(1) That paragraph (d) of sub-clause (2) of Clause 12 be amended by deleting therefrom the words "a term of" where they first occur in the second line thereof.

(2) That sub-clause (5) of Clause 12 be amended by substituting the figures "26" for the figures "25" which occur in the fourth line thereof.

4. That Clause 14 be amended by substituting the word "four" for the word "three" which occurs in the fourth line thereof.

5. That Clause 16 be amended by substituting the word "four" for the word "three" which occurs in the third line thereof.

6. That sub-clause (2) of Clause 21 be amended by substituting the figures "18" for the figures "17" which

11/65

REPORT
OF
THE SELECT COMMITTEE OF LEGISLATIVE COUNCIL
APPOINTED TO CONSIDER AND REPORT UPON THE
PROVISIONS OF A BILL TO PROVIDE FOR THE
NOMINATION AND ELECTION OF MEMBERS TO
THE LEGISLATIVE COUNCIL OF THE COLONY
AND PROTECTORATE OF KENYA

Your Excellency,

We, the members of the Select Committee of Legislative Council appointed to consider and report upon the provisions of the above Bill, have the honour to recommend that the Bill be amended in the following respects -

1. That Clause 1 be deleted and the following be substituted therefor -

"Short title and commencement.

1. This Ordinance may be cited as the Legislative Council Ordinance, 1955, and shall come into force on such date as the Governor may, by proclamation, appoint."

2. That paragraph (4) of Clause 9 be amended by deleting therefrom the words "a term of" where they first occur in the second line thereof.

3.(1) That paragraph (d) of sub-clause (2) of Clause 12 be amended by deleting therefrom the words "a term of" where they first occur in the second line thereof.

(2) That sub-clause (5) of Clause 12 be amended by substituting the figures "26" for the figures "23" which occur in the fourth line thereof.

4. That Clause 14 be amended by substituting the word "four" for the word "three" which occurs in the fourth line thereof.

5. That Clause 16 be amended by substituting the word "four" for the word "three" which occurs in the third line thereof.

6. That sub-clause (2) of Clause 21 be amended by substituting the figures "18" for the figures "17" which

occur in the second line thereof.

7. That Clause 22 be amended -

- (a) by substituting the words and comma "not being authorised to do so under the provisions of this Ordinance or of any Rules made thereunder," for the words "without due authority" which occur in the first line of paragraph (d) thereof;
- (b) by substituting a colon for the comma which occurs immediately after the word "election" in the third line of paragraph (g) thereof, and by inserting the word "or" immediately after such colon; and
- (c) by adding thereto the following new paragraph as paragraph (h) -

"(h) before or during an election, prints, publishes or posts, or causes to be printed, published or posted, any manifesto, bill, placard, or poster, having reference to the election which fails to bear upon the face thereof the name and address of the printer and publisher,".

8. That Clause 27 be amended by substituting the figures "26" for the Figures "23" which occur in the penultimate line thereof.

9. That Clause 28 be amended -

- (a) by substituting the figures "26" for the figures "23" which occur in the third line thereof; and
- (b) by substituting the word "office" for the word "officer" which occurs in the fifth line of paragraph (b) thereof.

10. That sub-clause (1) of Clause 32 be amended -

- (a) by inserting a comma after the Roman numeral II in the second line thereof; and
- (b) by substituting the Roman numerals and word "III and IV" for the word and numeral "and III" in the third line thereof.

11. That Clause 34 of the Bill be amended -

- (a) by substituting a colon for the full-stop at the end thereof; and
- (b) by adding thereto immediately after such colon the following proviso -

"Provided that, notwithstanding such repeal, the existing registers of voters shall be maintained and revised in accordance with the provisions of the Ordinance and Rules repealed by this Ordinance, as if this Ordinance had not been enacted: And provided that if, before the dissolution of the present Legislative Council, the election of any member becomes necessary to fill any vacancy amongst the elected members of the Legislative Council, such election shall be held subject to the provisions of the Ordinance and the Rules repealed by this Ordinance as if this Ordinance had not been enacted."

12. That Schedule I be amended -

- (a) by substituting the word "south-westerly" for the word "south-easterly" which occurs in the seventh last line of the description of the boundaries of the Rift Valley Electoral Area; and
- (b) by substituting the figures "5765" for the figures "7146" which occur in the eighteenth line of the description of the boundaries of the Trans Nzoia Electoral Area.

13. That Schedule II be amended -

- (a) by substituting the words "two shillings and fifty cents" for the words "five shillings" which occur in the second line of paragraph (b) of sub-rule (3) of Rule 4 thereof;
- (b) by renumbering sub-rules (2), (3) and (4) of rule 1 thereof as (3), (4) and (5) respectively, and by inserting the following new sub-rule as sub-rule (2) of Rule 1 thereof -

"(2) In the case of registers for any of the Electoral Areas described in Part A of Schedule I to the Ordinance, every claim shall be made in the Form A appended to these rules."

- (c) by deleting the words "a term of" where they first occur in paragraph (5) of Form C thereto and by deleting the words "of either description" where they occur in the second and third lines of that paragraph; and
- (d) by substituting the words "Government funds or from the funds of any local authority" for the words "any public funds whatsoever" which occur in paragraph (4) of Form C thereto.

14. That Schedule III be amended -

- (a) by inserting the words and comma "commissioner for oaths," between the word "peace" and the word "or" which occur in the third line of sub-rule (2) of Rule 2 thereof and by making the consequential amendments to Form A at the end of the Schedule;
- (b) by inserting the words "or dates" between the word "date" and the word "on" which occur in the first line of paragraph (b) of Rule 11 thereof;
- (c) by inserting a comma between the word "clerks" and the word "the" which occur respectively in the third and fourth lines of Rule 17 thereof, and by inserting immediately after such comma the words and comma "the candidates,";
- (d) by substituting a comma for the word "and" which occurs in the last line of paragraph (a) of sub-rule (2) of Rule 19 thereof and by inserting the words "and Hindi" between the word "Gurumukhi" and the semi-colon in the same line;
- (e) by deleting therefrom Rule 28 and substituting therefor the following -

"Rejection of
ballot papers.

28. Any ballot paper which has not on its back an official mark, or on which, in the case of an election of one member for any electoral area, votes are given to more than one candidate,

on
or/which, in the case of an election of two members for any electoral area, votes are given to more than two candidates, or on which anything except the number on its back is written or marked by which the vote can be identified, shall be void and shall not be counted."

(f) by substituting the figures "31" for the figures "29" which occur in the last line of Rule 30 thereof;

(g) by deleting therefrom Rule 32 and substituting therefor the following -

"Declaration of poll.

32. When the counting of the votes has been completed, the returning officer shall, in the case of the election of one member for any electoral area, declare the candidate to whom the greatest number of votes has been given to be elected, and in the case of the election of two members for any electoral area, declare the candidate to whom the greatest number of votes has been given, and the candidate to whom the next greatest number of votes has been given, to be elected:

Provided that, upon the application of any candidate or of the agent of such candidate, one recount, or as many recounts as to the returning officer may seem reasonable, shall be made before the returning officer makes the declaration."

(h) by substituting the figures and words "(3)" of Rule 2" for the figures "2(3)" which occur in the fourth line of Rule 35 thereof, by substituting the word "one-eighth" for the word "one-sixth" which occur in the fifth line of that Rule, by substituting a colon for the full stop at the end of that Rule and by adding immediately after such semi-colon the following proviso -

"Provided further that the Governor may, in any case where he considers that the forfeiture of the deposit would cause hardship, order that such deposit be refunded to the candidate."

and

(i) by inserting the commas and words ", or the names of the members elected, as the case may be," between the word "elected" and the word "to" in the third line of Rule 36 thereof.

15. That Schedule IV, be amended -

- (a) by inserting the words "or commissioner for oaths" between the word "public" and the word "if" which occur in the third line of sub-rule (3) of rule 1 thereof;
- (b) by substituting a full stop for the colon which occurs after the word "paper" in the third line of sub-rule (1) of Rule 2 and by deleting the proviso to that sub-rule; and
- (c) by deleting sub-rules (1) and (2) of rule 5 thereof and substituting therefor the following -

"5. (1) A voter who has applied for and obtained a postal ballot paper shall, in order to record his vote, produce the same, if the voter is within the Colony, to any postmaster, magistrate, commissioner for oaths or justice of the peace (other than a candidate for election for the electoral area in which the voter is registered) or, if the voter is not within the Colony, to a notary public or commissioner for oaths. Such voter shall then mark such paper by placing the mark X opposite the name of the candidate or candidates, as the case may be, for whom he votes, but so that the postmaster, magistrate, commissioner for oaths, justice of the peace or notary public, as the case may be, shall not see such mark. No other mark, writing, or signature save as herein provided shall be placed by the voter on the postal ballot paper. The voter shall then fold the postal ballot paper so as to conceal his vote, and shall sign his name thereon, in the place provided on the counterfoil, in the presence of the postmaster, magistrate, commissioner for oaths, justice of the peace or notary public, as the case may be, who shall witness such signature. For the purposes of this rule, the term "postmaster" shall mean any person who is authorised by the Postmaster General to be in charge of a post office.

(2) If the voter is within the Colony he shall then enclose the ballot paper in the envelope provided and hand it to the postmaster, magistrate, commissioner for oaths, or justice of the peace, as the case may be, who shall post the ballot paper or deliver it personally to the returning officer as soon as possible."

Mr. Isher Dass has signed this report, but he will submit a separate report on one or two matters not dealt with herein.

We have the honour to be,
Your Excellency's obedient servants,

- SD. W. HARRAGIN (CHAIRMAN)
- SD. W. M. LOGAN (MEMBER)
- SD. JUXON BARTON (MEMBER)
- SD. F. J. GAVINDISH BENTINCK (MEMBER)
- SD. G. H. RIDDELL (MEMBER)
- SD. H. E. SCHMARTZE (MEMBER)
- SD. ISHER DASS (MEMBER)

Nairobi,
5th July, 1955.

INDIAN ELECTED MEMBERS' ORGANIZATION
LEGISLATIVE COUNCIL, KENYA COLONY

F.O. BOX
Nairobi, Kenya Colony,
7th July, 1936

To
Chairman
Select Committee on Legislative Council Ordinance Bill,
Attorney General's Office, Nairobi.

Sir,

I have the honour to submit the following Minority Report in connection with the findings of the above Committee of which I am a Member.

1. With regard to the Disqualification of Voters, I wish to propose the following amendment -

That sub-clause (5) of Clause 9 be amended by the substitution of a comma in place of the semi-colon at the end of the third line thereof and by adding immediately after such comma these words: "including relief from the Land and Agricultural Bank of Kenya".

2. With regard to the form of Ballot Papers I propose the following amendments -

- i. That the proviso at the end of Rule 11, Schedule III of the Ordinance, be deleted.
- ii. That paragraph (a) of sub-rule (2) of Rule 18, Schedule III of the Ordinance, be amended by the deletion therefrom of the words "together with the symbol of identification allotted to each candidate in accordance with the proviso to Rule 11 of these Rules".
- iii. That paragraph (d) of sub-rule (2) of Rule 18, Schedule III of the Ordinance, be amended by the deletion therefrom of the words "and symbol of identification".
- iv. That Form C, Rule 18(2) of Schedule III of the Ordinance, be amended with the deletion therefrom of the column providing for a Symbol of Identification.

My reasons for these amendments are that the inclusion of Hindi among the languages to be used on the Ballot Paper would reduce the number of the so-called illiterate voters as also would the provision for identification of such voters.

5. I disagree with the provision for Indian Electoral Areas in paragraph (b), sub-clause (3) of Clause 5. My view is shared by the Indian Elected Members' Organisation of which the Hon. Mr. Mangat is a Member, and this view

was voiced in Council during the second reading of the Bill and put up before the Select Committee by an Indian Member of the Council and by myself. The majority of the Select Committee has not agreed with our recommendations and I therefore propose the following amendment -

- i. "That paragraph (a), sub-clause (2) of Clause 6 be deleted and be substituted by the words "and every Indian Member shall be elected for, and by the Indian voters of, each of the electoral areas described in Part B of that Schedule."
- ii. "That Part B of Schedule I be redrafted so as to give effect to the above amendment."

My reason for these amendments is that the bulk of Indian voters in the Central and Eastern electoral areas would be found in Nairobi and Mombasa and that these two towns could return four members without the deciding influence of the districts included in these areas. The interests of the districts are materially different from those of the towns, and there are other reasons. The three major towns of the Colony could be given three members, and the remaining two allotted to the districts, thus ensuring that the two main Indian interests will be well represented on the Council.

Nairobi town is divided into two European electoral areas and there is no reason why, if the above proposal is not accepted, Nairobi and Mombasa should each have two Indian electoral areas with the surrounding districts allied to each of the electoral areas in these towns.

This proposal does not imply any political or constitutional advance in the case of Indians as was suggested by some of the European elected Members of the Select Committee.

4. I was glad to have the assurance of the Chairman that Baluchis would be entitled to be included in the Indian Voters' Roll provided they proved their Indian origin and descent. This assurance ought to be conveyed to the community concerned and the District officers in areas where Baluchis reside.

5. I recommend that there should be only one Polling Day for Indian elections. The practice is universal and with adequate arrangements for polling in Mombasa and Nairobi - the two greatest Indian voting centres - there is no reason why the Indian election cannot be completed within one day.

But if, in spite of such adequate arrangements, polling cannot be managed in a day, the Governor should be empowered to extend the time for polling but not for more than three days in all, and provision to this effect should be made in the Bill.

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

SP. ISHER JASS
MEMBER
SELECT COMMITTEE

10 74

REPORT OF THE SELECT COMMITTEE APPOINTED
TO EXAMINE THE PROVISIONS OF THE
LEGISLATIVE COUNCIL ORDINANCE,
(CHAPTER 24 OF THE REVISED
EDITION LAWS OF KENYA).

On the 26th April, 1934, we were appointed members of a Select Committee to inquire into the provisions of the Legislative Council Ordinance and the rules promulgated thereunder, and to report on such amendments thereto as may be considered necessary.

2. Shortly after we were appointed Capt. Schwartze left for England, his place being taken by Mr. A.C. Tannhill.

3. After full examination of the Ordinance and the Rules we feel that, so numerous are the amendments which we consider should be made, the most convenient course is to repeal the Ordinance and all the Rules, and enact consolidating legislation reflecting the results of our deliberations. We have accordingly prepared the necessary measures, which appear as an Appendix to this report.

4. From representations which have been made to us, it would appear to be considered almost universally that the present Indian Electoral Area, namely, the Colony and Protectorate, is so large that definite hardship arises not only to the candidates but also to Government in organising an election. Elections run on for a period of twenty-eight days, during which period the candidates are put to inconvenience and expense in travelling all over the Colony, while almost the whole time of the District Commissioner, Nairobi, is spent in organising the election. A further point made was that it is difficult for an Indian Elected Member living at, say, Mombasa to keep in touch with the views of his constituents living at, say, Kitale.

After full consideration, we are satisfied that the Indian Electoral Area, should be divided into three areas, East, Central and West, the two first named returning two members to the Council, and the last named one member. The boundaries of the areas which we recommend will be found in Part B of Schedule I of the draft Bill in the Appendix to this Report. It will be observed that, if this recommendation is approved, the total number of Elected members will remain the same, so that no constitutional change is involved.

5. It is convenient to indicate our remaining recommendations by means of references to the draft Bill showing where it deviates from present legislation.

6. Under the Ordinance any person who "has received relief from any public funds whatsoever within twelve months of his application", is debarred from having his name entered on the Register. We consider that this section needs clarification, and we have accordingly in Clause 9(5) of the Bill amplified the expression "public funds" by substituting the words "Government funds or the funds of any local authority". A further point is that under the present law a person who received relief within twelve months of his application to be entered on the Register of Voters might be held to be debarred for ever from being registered. We therefore recommend that the law should be amended to make it clear that receipt of relief since the publication of the last revised Register of Voters only, will debar such a person from registration.

7. We recommend the deletion of section 11 of the present Ordinance, as we feel that provision for striking off names from the Register of Voters can more appropriately appear in the Rules dealing with the annual revision of the Register.

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8. Clause 11 of the Bill repeats Section 11A of the present Ordinance, amended to reflect the recommendation in paragraph 4 of the report.

9. Clauses 12, 13, 14, 15, and 16 of the Bill repeat the present Ordinance, with a few verbal amendments, which introduce no new principle.

10. Clause 16 is based on Article XXXI of the Instructions under the Royal Sign Manual and Signet dated the 29th day of March, 1934, which reads as follows:-

"The Governor shall dissolve the Legislative Council at the expiration of three years from the date of the last preceding General Election of Elected members of the said Council, if it shall not have been sooner dissolved".

We understand that in certain other dependencies the life of the Legislative Council is four or more years. The expense and inconvenience caused by an election, both to the candidates and to the Government is considerable and we are unanimously of the opinion that the life of the Legislative Council should be increased to four years, and that this increase should take effect forthwith, so that the life of the present Council should be extended. We realise that this would necessitate the issue of amending Instructions under the Royal Sign Manual and Signet, and we accordingly recommend that the Government should make representations to the Secretary of State for the Colonies urging him to advise His Majesty in this sense.

11. Under the present Ordinance, if an Elected Member is absent from the Colony for 12 months, the Governor shall declare his seat to be vacant. We are of opinion that this period is unduly long, and that if a member is likely to be absent for a lengthy period, it is only reasonable that he should resign.

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In order, however, that he may be enabled to enjoy a reasonable period of leave, we consider that the period permitted without a by-election should be nine months. Clause 20 of the Bill reflects this recommendation.

12. It has been represented to us that it has been a frequent occurrence at elections in respect of the Indian Electoral Area, for agents of the candidates to fill in ballot papers belonging to illiterate voters. This practice is most undesirable, for the voter has no guarantee that he is voting for the candidate or candidates whom he wishes to be elected. We therefore recommend that this should be made an offence and paragraph (d) of Sub-Clause (1) of Clause 22 of the Bill reflects this recommendation.

13. It is open to doubt if, under the present Ordinance, payment by candidates to agents in respect of their general services is not an offence, although we feel that that was not the intention of the Legislature. We have therefore made it clear in the proviso to Clause 28 of the Bill that this is specifically excluded from the list of offences.

14. The remaining changes made in the Ordinance are of a purely formal character and introduce no new point of principle.

SCHEDULE I.

15. Part B reflects our recommendations for the divisions of the Indian Electoral Area. The population in the three areas is approximately proportional to the number of members to be elected.

SCHEDULE II.

RULES FOR THE PREPARATION OF REGISTERS OF VOTERS.

16. The existing Rules, although they refer to the numbering of voters in the register, make no provision for such numbering. We are of opinion that the simplest manner of doing this is to classify the names of all voters into alphabetical divisions in accordance with the initial letter of the surname of each voter, and then to allot a serial number to each, each alphabetical division commencing with unity. Sub-Rule (2) of Rule 2 reflects this recommendation.
17. We gave consideration to the possibility of an arrangement whereby qualified persons would automatically have their names inserted on the Register of Voters, either by utilising Central Revenue Office records, or in some other fashion. Although the European Elected Members consider that such automatic registration would be desirable, we are satisfied that it is not practicable.
18. We consider that it should be possible for a registered voter who has changed his residence to have his name transferred to the Register of Voters in respect of the Electoral Area to which he has moved. Paragraph (b) of Sub-Rule 1 of Rule 4 makes the necessary provision.
19. We have had it in evidence that a number of frivolous or vexatious claims for insertion or alteration of names on the Register are made from time to time. We consider that the most satisfactory method of obviating such occurrences is to make provision for each claim or application being accompanied by a fee of five shillings, which shall be

forfeited if the application is, in the opinion of the Registering Officer frivolous or vexatious.

20. It has been represented that, after the Register of Voters has been published, the public have no information regarding the names of persons who have been added to or expunged from the Register. We therefore recommend that lists of such names should be published in the Official Gazette after the period for claims and objections has elapsed. Provision has been made accordingly.

21. The present rules, although providing for certification of a Register of Voters, do not specify the form which that certification should take. We have accordingly suggested in rule 6 a form of certificate which should in our opinion be universally adopted.

22. Under the present rules, additions to a Register of Voters are received from the 1st January until the 31st August, but the rules do not state explicitly that no further applications can be entertained after that date, although, in our opinion, such was the intention. We therefore recommend that this should be clearly stated and have embodied it in Sub-Rule (2) of Rule 7.

23. It is the duty of the Registering Officer when revising the Register of Voters to expunge the names of persons who may have become disqualified or have left the Electoral Area, or have not resided within the Electoral Area for a period of twelve months. We are informed that mistakes have been made in this regard without the knowledge of the persons affected, who in all probability

would not normally see a copy of the Official Gazette. We therefore consider it desirable to make it mandatory for all registering officers to notify persons whose names have been so expunged. Provision has been made accordingly in Sub-rule(2) of Rule 8.

24. We consider that the notice which is published in the press drawing attention to the fact that copies of the registers have been published in the Gazette, should briefly indicate the manner in which and the time within which claims can be made. Provision for this appears in sub-Rule (3) of Rule 8.

25. We consider that Form B at present does not provide adequate information to identify the applicant for registration, and we have therefore added certain questions to be answered by each applicant. We are satisfied that these additions are necessary for the smooth working of the procedure.

SCHEDULE III.

RULES FOR THE ELECTION OF MEMBERS.

26. This Schedule has been recast in consequence of the alteration in the Indian Electoral Area, in order that the one set of Rules may suitably be applied to all contested elections.

27. Representations were made to us that it would be desirable that each nomination paper should be accompanied by a deposit which would only be returnable in the event of a candidate receiving a given proportion of the votes polled. The arguments in favour of this procedure are mainly that it precludes persons without any financial

status from standing for election, and it also precludes frivolous nominations. After full consideration, we recommend that a deposit of Shs. 1000/- should be lodged by each candidate and that that deposit should be forfeited if the candidate fails to secure one-sixth of the total number of votes polled for the Electoral Area for which he was a candidate for election.

(Major Cavendish Bentinck and Major Riddell consider that the fraction should be one-eighth). Provision has been made in Rules 2 (3) and 35.

28. Under the existing Rules nomination papers can be handed in at any time before 1 p.m. on nomination day. We recommend that the period during which they can be handed in should begin at 9. a. m. and end at 12 noon. The reason for this recommendation is that, under present legislation it might be considered to be compulsory for the Returning Officer to be in attendance from twelve midnight, which is, in our view, entirely unnecessary.

29. Rule 11 merely repeats the present Rule 13. We realise however, that in the case of the Indian Electoral Area, it will not be possible for polling to take place on one day, owing to the number of voters. We consider that it will probably take at least three days, but the actual number will be fixed by the Governor when the Gazette notice envisaged by the Rule is being drafted. The Governor will no doubt be advised by the Returning Officer in this regard. The Indian Members consider it desirable that one of the days allocated to the election of an Indian

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candidate should be a Sunday or a public holiday.

30. We believe that voting by illiterate and semi-literate Indian voters would be considerably facilitated if a symbol appeared on the ballot paper against the names of the various candidates. We considered the possibility of each candidate selecting his symbol, but after consultation with the Government Printer, we are satisfied that this procedure might be unworkable, and we accordingly recommend that symbols be allotted to each candidate by the Governor. This recommendation is reflected in the proviso to Rule 11.

31. In Rule 18 we have amplified the description of the ballot papers, and, in the case of the Indian Electoral Areas, added provision for the symbols envisaged in the preceding paragraph, and for printing of the names of the candidates in English, Gujarati, Urdu and Gurmukhi, the object being to enable the voter, so far as possible to understand precisely for whom he is voting.

32. We have been informed that there is sometimes a tendency for persons to converse with voters in polling stations, with a view to persuading them to vote for a particular candidate. We consider that this is undesirable and that all possible steps should be taken to prevent it. After full consideration, we have decided to recommend that no person other than the Returning Officer, a Presiding Officer or a Deputy-Presiding Officer shall be permitted to converse with a voter who enters a polling station for the purpose of recording his vote, and that the penalty shall be that the offender may be required to

leave the polling station. This recommendation is reflected in Rule 25.

33. The existing Rules do not permit of the candidates being present during the counting of the votes, but only their agents. We consider that the candidates themselves should have the right to be present, and have incorporated this provision in Rule 27(2).

SCHEDULE IV. VOTING BY POST RULES.

34. As the serial numbers of registered voters will if our recommendations are approved, have been published, we consider that an application for a postal ballot paper should show the voter's number in the register. This will enable the District Commissioner receiving the application readily to identify him.

35. We see no reason why a voter, who is without the Colony, should not vote if he so desires and if he is able to make the necessary arrangements in time. We therefore, recommend that provision should be made for a voter who may happen to be outside the Colony to fill in an application form for a postal ballot paper in front of a Notary Public and that should he so apply, he should be sent a postal ballot paper on payment of the necessary postal charges. This is reflected in Rules 1, 2(3) and 5(1).

36. We understood that, at the recent General Election a number of applications for postal ballot papers were made on the day of the poll, and that much inconvenience was thereby caused to the District Commissioner concerned, who also happened to be a Returning Officer.

We consider that this is undesirable, and therefore recommend that no postal ballot papers should be issued after 4 p.m. on the day preceding polling day.

37. We observe that the envelopes at present used for transmission of postal ballot papers are addressed "To the Returning Officer of the Electoral Area". This form of address may easily lead to misdirection of the envelopes by the postal authorities, as the identity of the various Returning Officers might easily not be known to the postal clerks and sorters who would deal with the matter. We recommend that administrative action be taken to ensure that the addresses on such envelopes should refer to the officer concerned by his proper title, e.g. "Resident Magistrate, Nairobi".

- (Signed) W. HARRAGIN.
Attorney General, (Chairman).
- (Signed) T.D.H. BRUCE.
Solicitor General.
- (Signed) E.B. HOSKING.
Commissioner of Mines.
- (Signed) F. CAVENDISH-BENTINCK.
- (Signed) G.H. RIDDELL.
- (Signed) A.C. TANNAHILL.
- (Signed) N.S. MANGAT. (Subject to minute of dissent).
- (Signed) J.B. PANDYA (Subject to minute of dissent).

Dated this 23rd January, 1935.

MINUTE OF DISSEMI BY THE HON. J. B. PANDYA.

I differ from the majority Report with regard to the recommendations contained in paragraph 29 of the report about the number of days for polling in Indian elections. The recommendation of the majority if accepted by the Government would mean practically no alteration in the present system by which 28 days are allowed for polling in Indian elections, except that the majority recommends that the number of days should be at least three, and that each time the actual number of days for polling should be gazetted.

We have had personal experience of the difficulties and enormous expenses involved in the present system which it is proposed to continue. It is both unfair to candidates and unnecessary, if polling is done under a better system, which could be easily devised, as was the case with informal elections of the Mombasa Municipality which were held last year at Mombasa, on the Legislative Council Roll, and were efficiently and without a hitch carried out in one polling day to the satisfaction of all concerned.

It is proposed to carry on with the old system, because it appears, the Government wish to consult their own convenience first, without having regard to the inconvenience or unnecessary heavy expenses to the parties concerned. The number of votes polled during the last very keenly contested Indian elections in Nairobi, were about 3,750, and in my opinion, it is unreasonable and ridiculous to suggest that a system could not be devised by which these numbers could poll on one day. It would not make any difference to the Government in expenses because with more days smaller staff will be sufficient

and the increased staff would be able to cope with the work in one day. But for any possible eventual saving in expenditure if the old system is continued it would be unfair to the candidates and to the Indian Community, because they will have in that case to incur very large expenses and suffer the inconveniences and anxieties of a lengthy polling. The new rules provide for quick identification in case of disputes and there is no possibility of the repetition of previous difficulties about identification of a voter. I have not heard any sound or convincing reason advanced in favour of the continuation of the present system, in the evidence, or in the report, and against one day polling which is desired by the Indian members.

I suggest, therefore, that there should be a provision in the rules that for Indian elections there should be one polling day but in any case not more than three days. If the number of days are not thus limited to three, it will be at the discretion of the Returning Officer to fix the number of days who will no doubt first consult his own convenience with a wide margin.

With regard to paragraph 19 about the frivolous and vexatious claims for insertions or alterations of names in the register; it is suggested by the Majority Report that a deposit fee of Shs.5/- should be paid for every such claim. This charge is too high and would discourage even the genuine claims. I suggest that the fee should be Shs.1/--instead of Shs.5/-.

With regard to Schedule 2 para 1/2 it was discussed in the Committee, and it was generally agreed and understood, that as far as the present Indian register of voters was concerned, it should be scrapped, and new register for each electoral area should be prepared.

-14-

There is no specific provision in the legislation, rules, or in the recommendations of the report to that effect. I should therefore like to suggest that provision for preparation for new register should be made as early as possible, after the legislation has been passed.

(Signed) J. B. PANDYA.

1st February, 1935.

NOTE BY THE HON. N. S. MANGAT.

I wish to associate myself with Mr. Pandya.

(Signed) N. S. MANGAT.

8th February, 1935.

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In any communication on this subject please quote No. 16194 & B and address —

THE CLERK OF THE COUNCIL,
PRIVY COUNCIL OFFICE,
WHITEHALL, LONDON, S.W. 1.

PRIVY COUNCIL OFFICE,

17th June, 1935

RECEIVED
18 JUN 1935
C. O. REAY

SIR,

I am directed by the Lord President of the Council to transmit to you the accompanying Order of His Majesty in Council of the 6th instant approving draft of Additional Instructions to the Govt. in C.O. of the balance of Kenya, and I am to request that you will lay the same before the Secretary of State for the Colonies

I am,

Sir,

Your obedient Servant,

M. P. A. Hambrey

The Under Secretary of State,

&c., &c., &c.

Colonial Office

Send copy of Order and 6 copies of plain copies and 6 copies of copies

7 88

In any communication on this subject please quote No. 121943 and address —

THE CLERK OF THE COUNCIL
PRIVY COUNCIL OFFICE
WHITEHALL, LONDON, S.W. 1.

PRIVY COUNCIL OFFICE,

17th June, 1935.

RECEIVED
18 JUN 1935
G. A. REAY

SIR,

I am directed by the Lord President of the Council to transmit to you the accompanying Order of His Majesty in Council of the ^{6th} instant affirming draft of Additional Instructions to the Govt. and Govt. of the Colonies of Kenya, and I am to request that you will lay the same before the Secretary of State for the Colonies.

I am,

Sir,

Your obedient Servant,

M. P. A. Hankroy

The Under Secretary of State,

&c., &c., &c.

Colonial Office.

Scales copy 1
2nd Order
and 2nd copies
1 sealed - 6 plain copies and 6 copies

For his L^{ty}. Bottomley's use

G. D.
H 3 JUN
D 3

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Mr. Dist. 1/6
Mr. Migon 1/6
Mr. Slov. 1/6 fs.

Answered by
No 1

Downing Street,

3 June 1935

To go not later
than 3rd June

My Lord,

I have the honour to transmit to your Lordship the
draft of Additional Instructions ^{the} passed under
the Royal Sign Manual and Signet to the
Governor and Commander-in-Chief of the Colony
of Kenya in regard to the duration of the
legislative council, &c.

B.D. 19 will
be given

I have to request that your Lordship will submit this Draft for the
approval of the King in Council, and that two sealed copies and two plain
~~approving~~ ^{approving} copies of the Order in Council may be supplied for the use of the Colonial Office.

I have the honour to be,

My Lord,

Your Lordship's most obedient, humble servant,

(Signed) W. C. BOTTOMLEY.

The Lord President

of the Council.

(For the Secretary of State.)

Address envelope to
The Lord of the Isles
Private Council Office.

AT THE COURT AT BUCKINGHAM PALACE,

The 6th day of June, 1885.

Present,

**THE KING'S MOST EXCELLENT MAJESTY
IN COUNCIL.**

WHEREAS there was this day read at the Board a letter to the Lord President of the Council from the Right Honourable Sir Philip Cunliffe-Lister, one of His Majesty's Principal Secretaries of State, transmitting the Draft of Additional Instructions to be given to the Governor and Commander-in-Chief of the Colony of Kenya:

His MAJESTY, having taken the same into consideration, was pleased, by and with the advice of His Privy Council, to approve thereof, and to order, as it is hereby ordered, that the Right Honourable Sir Philip Cunliffe-Lister, one of His Majesty's Principal Secretaries of State, do prepare the said Additional Instructions (which are hereunto annexed) for His Majesty's Royal Signature.

M. P. A. HANKEY.

ADDITIONAL INSTRUCTIONS to Our Governor and Commander-in-Chief in and over Our Colony of Kenya, or other Officer for the time being administering the Government of Our said Colony.

WHEREAS by Letters Patent under the Great Seal bearing date the Eleventh day of September, 1920, We did constitute, order and declare that there should be a Governor and Commander-in-Chief (therein and hereinafter called the Governor) in and over Our Colony of Kenya (therein and hereinafter called the Colony):

Recites Letters Patent of 11th September 1920.

AND WHEREAS We did thereby authorise, empower and command the Governor to do and execute all things that belong to his said office, according to the tenour of Our said Letters Patent and of any Orders in Council relating to the territories formerly known as the East Africa Protectorate, save in so far as any provision of any such Order in Council might be repugnant to any of the provisions of Our said Letters Patent, and of such Commission as might be issued to him under the Royal Sign Manual and Signet, and according to such Instructions as might from time to time be given to him under the Royal Sign Manual and Signet, or by Order in Council or by Us through one of Our Principal Secretaries of State, and to such laws as were then or should thereafter be in force in the Colony:

AND WHEREAS We did issue to the Governor certain Instructions under Our Sign Manual and Signet bearing date the Twenty-ninth day of March, 1934, providing amongst other things for the constitution of the Legislative Council of the Colony:

Recites Instructions of 29th March, 1934.

AND WHEREAS by the Thirty-first Clause of Our aforesaid Instructions of the Twenty-ninth day of March, 1934, it was directed that the Governor should dissolve the Legislative Council at the expiration of three years from the date of the last preceding general election if it should not have been sooner dissolved:

AND WHEREAS it is expedient that other provision should be made in regard to the duration of the Legislative Council:

NOW, THEREFORE, We do by these Our Additional Instructions under Our Sign Manual and Signet declare Our will and pleasure that, as from the date hereof, the Thirty-first Clause of Our said Instructions of the Twenty-ninth day of March, 1934, shall be amended by the substitution therein of the word "four" for the word "three."

Amendment of Clause XXXI of Instructions of 29th March, 1934.

Given at Our Court at Saint James's, this day of June, 1935, in the Twenty-sixth year of Our Reign.

ADDITIONAL INSTRUCTIONS to the
GOVERNOR AND COMMANDER-IN-CHIEF,
Colony of Kenya.

AT THE COURT AT BUCKINGHAM PALACE,

The 6th day of June, 1935.

Present,

**THE KING'S MOST EXCELLENT MAJESTY
IN COUNCIL.**

WHEREAS there was this day read at the Board a letter to the Lord President of the Council from the Right Honourable Sir Philip Cunliffe-Lister, one of His Majesty's Principal Secretaries of State, transmitting the Draft of Additional Instructions to be given to the Governor and Commander-in-Chief of the Colony of Kenya:

HIS MAJESTY, having taken the same into consideration, was pleased, by and with the advice of His Privy Council, to approve thereof, and to order, as it is hereby ordered, that the Right Honourable Sir Philip Cunliffe-Lister, one of His Majesty's Principal Secretaries of State, do prepare the said Additional Instructions (which are hereunto annexed) for His Majesty's Royal Signature.

M. P. A. HANKEY.

C. O.

Handwritten signature and initials

Mr. Grossmith. *2/5*
 Mr. *Freston 22*
 Mr. *Dale 22 5*
 Sir C. Parkinson. *22 9/8*
 Sir G. Tomlinson.
 Sir C. Bullockley.
 Sir J. Shuckburgh.
 Permt. U.S. of S.
 Parly. U.S. of S.
 Secretary of State.

AIR MAIL.

CD
 R 22 MAY
 D *22*
 Sir,

Downing Street,
 25 May 1935.

I have etc. to acknowledge

DRAFT.

KENYA.

CONFIDENTIAL.

O.A.G.

(1)

the receipt of Sir Joseph Byrne's Confidential despatch No.38 of the 18th of March and your Confidential telegram No.92 of the 30th of April regarding the proposed new legislation to provide for the nomination and election of members to the Legislative Council of the Colony and Protectorate of Kenya.

(2.) In my Confidential telegram No.125 of the 17th of May, 1935, I informed you as follows:-

(3)

"Your telegram No.92 Confidential. Draft legislation approved in principle. Bill may be published. Observations on details follow by air mail which may necessitate Govt. amendments at committee stage". As regards those

FURTHER ACTION.

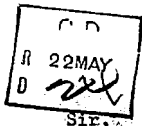
Revised E.N.
Regan

C. O.

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[Handwritten signature]
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- Mr. Grosmith. *2/5-*
- Mr. *Frederick* *22*
- Mr. *Dale* 22 *5*
- Sir C. Patkinson. *22* *js*
- Sir G. Tomlinson.
- Sir C. Bodomley.
- Sir J. Shackburgh.
- Permt. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

AIR MAIL.



Downing Street,
25 May 1935.

[Handwritten signature]

I have etc. to acknowledge

DRAFT.

(1)

KENYA.

CONFIDENTIAL.

O.A.G.

the receipt of Sir Joseph Byrne's Confidential despatch No.38 of the 18th of March and your Confidential telegram No.92 of the 30th of April regarding the proposed new legislation to provide for the nomination and election of members to the Legislative Council of the Colony and Protectorate of Kenya.

(2.) In my Confidential telegram No.125 of the 17th of May, 1935, I informed you as follows:-

(3)

"Your telegram No.92 Confidential. Draft legislation approved in principle. Bill may be published. Observations on details follow by air mail which may necessitate Govt. amendments at committee stage". As regards those

FURTHER ACTION.

*Review E.R.
Regan*

features of the new legislation to which
my attention was directed in paragraphs ~~2 and 3~~^{2 and 3}
in Sir Joseph Byrne's despatch, my approval
may be assumed of the proposals to divide the
present Indian electoral area into three
areas, and to increase forthwith the life of
the Legislative Council from three to four

years. ⁽³⁾ In the latter connection I ~~propose~~^{gather}
that it is your intention to introduce the
Bill into the Legislative Council ~~at the~~^{during the}
~~session commencing~~^{meeting} on the 5th of June. ~~It is~~^{It is}
~~clearly desirable~~^{clearly desirable}
that the amendment of ~~Article~~^{Article} of
Article XXXI of the Royal Instructions should

be made ~~contemporaneously with the introduction~~
before ~~the Bill~~^{passes into law} I shall proceed to obtain the
necessary amendments of the Royal Instructions, and
with inform you by telegram when ~~the amendments are made~~^{it has been}
unless I hear from you that the Bill will not

be introduced ~~at that meeting~~^{during that session}.
As regards the ~~rules for the election~~^{fourth paragraph of the}
of members, I consider that it would be wise
and unworkable that a deposit should be
forfeited when a candidate fails to obtain
~~one-sixth~~^{one-sixth}
of the total votes polled for the

*In course
in view of
Nos. 2 & 3
in the file.*

C. O.

- Mr.
- Mr.
- Mr.
- Sir C. Parkinson.
- Sir G. Tomlinson.
- Sir C. Bannister.
- Sir J. Sturtevant.
- Permt. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

DRAFT.

FURTHER ACTION.

electoral area for which he was a
candidate for election. This
procedure, if adopted, would accord
with the present practice in this
country.

(5) ~~5~~ I note that the two Indian

Elected Members who served on the
Select Committee which examined the
provisions of the Legislative Council
Ordinance (Chapter 24 of the revised
edition of the Laws of Kenya),
dissented from the recommendations of
the majority of the Committee on
certain points. The Indian dissentient
argued that candidates have to incur
expense and suffer the inconvenience
and anxieties of a lengthy polling.
They suggested therefore that provision
should be made in the Rules that, for
Indian elections, there should be one
polling day and in any case not more
than three days. I would only
observe on this point that in my view

one day would not be sufficient to allow of satisfactory polling in three large constituencies. I think, therefore, that it would be best to leave the matter open as suggested by the majority of the Committee

(6) As regards Mr. Pandye's complaint that there is no specific provision in the proposed legislation or in the recommendations of the Select Committee that the present Indian Register of Voters should be destroyed and a new Register prepared for each electoral area, I assume that a new Register will have to be prepared ^(in any case) on the next annual revision so that there is no necessity for any specific legal provision for that purpose.

(7) I ^{desire} to invite your attention to the following legal observations on points of detail in the draft Bill.

Section 12. The provisions of sub-section (4) appear to be ambiguous. It is not clear whether the words "such contract"

mean

C. O.

Mr.

Mr.

Mr.

Sir C. Parkinson.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Parlt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

DRAFT.

FURTHER ACTION.

mean "any contract with a Govt. Dept. for which the consideration exceeds £75" or merely "any contract with a Govt. Dept."

In sub-section (5) the reference to Section 23 should presumably be to Section 26.

Section 14 and 16. The words "three years" will require to be amended to "four years".

Section 21. The reference to Section 17 in sub-section (2) should presumably be to Section 18.

Section 22. Sub-section (1).

(d). It would seem from paragraph 12 of the Select Committee's Report that it is desired to ^{prevent} stop any agent of a candidate filling in the ballot paper on behalf of a voter, even though requested by the voter. The words "without due authority" ought not, on this assumption, to appear in Section 2 sub-section

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- Sir J. Shackburgh.
- Parlt. U.S. of S.
- Party, U.S. of S.
- Secretary of State.

DRAFT.

FURTHER ACTION.

mean "any contract with a Govt. Dept. for which the consideration exceeds £75" or merely "any contract with a Govt. Dept.". In sub-section (5) the reference to Section 23 should presumably be to Section 26. ^{Clause} Sections 14 and 16. The words "three years" will ^{now} require to be amended to "four years". ^{Clause} Section 21. The reference to Section 17 in sub-section (2) should presumably be to Section 18. ^{Clause} Section 22, ^{Clause} Sub-section (1) (d). It would seem from paragraph 12 of the Select Committee's Report that it is desired to ^{prevent} any agent of a candidate filling in the ballot paper on behalf of a voter, even though requested by the voter. The words "without due authority" ought not, on this assumption, to appear in Section 2 ^{sub-section}

sub-section (1)(d). On the other hand merely to leave out the words would not be satisfactory, since it would be made an offence for a presiding officer to mark the paper, as provided by Rule 23 of Schedule III. You will no doubt arrange for this sub-section to be re-drafted.

Section 26, sub-section (1)(b).

The words "corruptly" and "for the purpose of corruptly influencing" have been omitted. As drafted sub-section (1)(b) has the effect of precluding anybody from providing hospitality in any circumstances, whatever. I assume this is not the intention. It is suggested that this sub-section should follow Section 23(1) of Chapter 24 of the revised edition of the Laws of Kenya which is the same as Section 1 of the United Kingdom Act (46 and 47 Vict. Chapter 51), should be reinstated.

Sections 27 and 28. The reference to Section 23 should presumably be to Section 26.

Schedule III, Rule 30. The reference to Section 28 should presumably be to Section 31.

I have, etc.

(Sgd.) P. CUNLIFFE-LISTER.

C.O.
Mr. Everswith 17/35
Mr. Freeston 17
Mr. Ford 17
Sir G. Parkinson
Sir G. Tomkinson
Sir C. Bottomley
Sir J. Stubbburgh
Permt. U.S. of S.
Parly. U.S. of S.
Secretary of State.

DRAFT. *Del.*
Procure
Nairobi.

FURTHER ACTION.
quickly
Rec'd for
despatch

No. 125

Confidential.
Your telegram No 92 Confidential
Draft legislation approved in principle. Bill may be published. Suggest that ~~fraction in Rule 30 of Rules for Election of members should be left.~~ Legal ~~provisions~~ ^{on details} follow by Air Mail which may necessitate by agreement amendments at Committee stage.



30052/35
17 May 1955
"B.D."



GOVERNMENT HOUSE,
NAIROBI,
KENYA.

KENYA
No. 38 CONFIDENTIAL.

RECEIVED
10 APR 1955
C. O. REGY

15th MARCH, 1955.

Sir,

No 3
23067/3H

Enclosed (4)

With reference to our despatch No. 149 of 28th of February, 1954, I have the honour to inform you that, after the General Election held in April, 1954, it seemed desirable to appoint a Select Committee of the Legislative Council to examine the provisions of the Legislative Council Ordinance and the Rules promulgated thereunder, as during the election it became evident that the existing legislation could with advantage be amended on a number of points of detail. A Select Committee was appointed accordingly, and I enclose copies of their Report, and copies of draft legislation which reflect the results of their deliberations. In view of the nature of some of those recommendations I have considered it desirable to submit the Bill for your approval before its introduction into Legislative Council.

2: The first recommendation to which I desire to invite your attention is that contained in paragraph 4 of the Report, under which, if accepted, the Indian Electoral Area, which at present consists of the whole of the Colony and Protectorate, should be divided into three areas, two of /which

THE RIGHT HONOURABLE
MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C., G.B.E., M.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S. W. 1.



KENYA

GOVERNMENT HOUSE,
NAIROBI,
KENYA.

No. 39 CONFIDENTIAL.

RECEIVED
10 APR 1955
C. O. REGY

18th MARCH, 1955.

Sir,

No 3.
23064/34

Amend (4)

With reference to our despatch No. 149 of 28th of February, 1954, I have the honour to inform you that, after the General Election held in April, 1954, it seemed desirable to appoint a Select Committee of the Legislative Council to examine the provisions of the Legislative Council Ordinance and the Rules promulgated thereunder, as during the election it became evident that the existing legislation could with advantage be amended on a number of points of detail. A Select Committee was appointed accordingly, and I enclose copies of their Report, and copies of draft legislation which reflect the results of their deliberations. In view of the nature of some of those recommendations I have considered it desirable to submit the Bill for your approval before its introduction into Legislative Council.

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DOWNING STREET,
LONDON, S. W. 1.

which would return two members each to the Legislative Council, and the third one member. I support this recommendation for the reasons adduced by the Committee, and would observe that the change is desired by the Indian Community as a whole, and is not opposed by the European Elected Members.

3. The next recommendation of importance is contained in paragraph 10 of the Report, in which it is proposed that the life of the Council should be increased from three to four years. The justification for such an increase is the expense and inconvenience caused by a General Election, and I can see no objection to your advising His Majesty to issue the necessary amending Instructions under the Royal Sign Manual and Signet. I do, however, feel some misgiving on constitutional grounds regarding the proposed prolongation of the life of the present Council. The successful candidates at the last election were elected for a period of three years, and I consider that the electors have a definite right to call on their members to give an account of their stewardship after three years. At the same time, I believe that an extension from three to four years would in actual fact meet with almost unanimous public support, and I therefore commend the proposal to your favourable consideration.

4. The only other matter to which I wish to invite your attention is the recommendation contained in paragraph 27 of the Report. A number of candidates stood for election at the last General Election in respect of the Indian Electoral Area whose chances of election were so small as to be almost negligible, and who were not men of standing in the community. The candidature
/of such

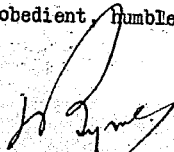
of such persons serves no useful purpose, and creates a considerable amount of extra work for those entrusted with the conduct of an election. I consider that the recommendation in paragraph 27 of the Report is the most suitable solution of the difficulty. You will observe that, under the proposal, a deposit will be demanded from all candidates, irrespective of race. A subsidiary point is the minimum proportion of votes to be obtained to enable the deposit to be returned, and on this matter the Committee were not unanimous. I hold no strong feelings in the matter, and if the majority of the Elected Members wish the fraction to be reduced from one-sixth to one-eighth, I propose to allow the necessary amendment to the Bill.

5. I shall be glad to receive your observations on the Report, and your approval of the introduction of the Bill into the Legislative Council.

I have the honour to be,

Sir,

Your most obedient, humble servant,



BRIGADIER-GENERAL,
GOVERNOR.

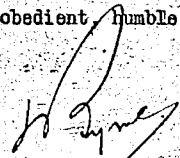
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Your most obedient, humble servant,



BRIGADIER-GENERAL,
GOVERNOR.

102

REPORT OF THE SELECT COMMITTEE APPOINTED
TO EXAMINE THE PROVISIONS OF THE
LEGISLATIVE COUNCIL ORDINANCE,
(CHAPTER 24 OF THE REVISED
EDITION LAWS OF KENYA).

On the 26th April, 1934, we were appointed members of a Select Committee to inquire into the provisions of the Legislative Council Ordinance and the rules promulgated thereunder, and to report on such amendments thereto as may be considered necessary.

2. Shortly after we were appointed Capt. Schwartze left for England, his place being taken by Mr. A.C. Tannhill.

3. After full examination of the Ordinance and the Rules we feel that, so numerous are the amendments which we consider should be made, the most convenient course is to repeal the Ordinance and all the Rules, and enact consolidating legislation reflecting the results of our deliberations. We have accordingly prepared the necessary measures, which appear as an Appendix to this report.

4. From representations which have been made to us, it would appear to be considered almost universally that the present Indian Electoral Area, namely, the Colony and Protectorate, is so large that definite hardship arises not only to the candidates but also to Government in organising an election. Elections run on for a period of twenty-eight days, during which period the candidates are put to inconvenience and expense in travelling all over the Colony, while almost the whole time of the District Commissioner, Nairobi, is spent in organising the election. A further point made was that it is difficult for an Indian Elected Member living at, say, Mombasa to keep in touch with the views of his constituents living at, say, Kitele.

After full consideration, we are satisfied that the Indian Electoral Area, should be divided into three areas, East, Central and West, the two first named returning two members to the Council, and the last named one member. The boundaries of the areas which we recommend will be found in Part B of Schedule I of the draft Bill in the Appendix to this Report. It will be observed that, if this recommendation is approved, the total number of Elected members will remain the same, so that no constitutional change is involved.

5. It is convenient to indicate our remaining recommendations by means of references to the draft Bill showing where it deviates from present legislation.

6. Under the Ordinance any person who "has received relief from any public funds whatsoever within twelve months of his application", is debarred from having his name entered on the Register. We consider that this section needs clarification, and we have accordingly in Clause 9(5) of the Bill amplified the expression "public funds" by substituting the words "Government funds or the funds of any local authority". A further point is that under the present law a person who received relief within twelve months of his application to be entered on the Register of Voters might be held to be debarred for ever from being registered. We therefore recommend that the law should be amended to make it clear that receipt of relief since the publication of the last revised Register of Voters only, will debar such a person from registration.

7. We recommend the deletion of section 11 of the present Ordinance, as we feel that provision for striking off names from the Register of Voters can more appropriately appear in the Rules dealing with the annual revision of the Register.

- 8. Clause 11 of the Bill repeats Section 11A of the present Ordinance, amended to reflect the recommendation in paragraph 4 of the report.
- 9. Clauses 12, 13, 14, 15, and 16 of the Bill repeat the present Ordinance, with a few verbal amendments, which introduce no new principle.
- 10. Clause 15 is based on Article XXI of the Instructions under the Royal Sign Manual and Signet dated the 29th day of March, 1934, which reads as follows:-

"The Governor shall dissolve the Legislative Council at the expiration of three years from the date of the last preceding General Election of elected members of the said Council, if it shall not have been sooner dissolved".

We understand that in certain other dependencies the life of the Legislative Council is four or more years. The expense and inconvenience caused by an election, both to the candidates and to the Government is considerable and we are unanimously of the opinion that the life of the Legislative Council should be increased to four years, and that this increase should take effect forthwith, so that the life of the present Council should be extended. We realise that this would necessitate the issue of amending Instructions under the Royal Sign Manual and Signet, and we accordingly recommend that the Government should make representations to the Secretary of State for the Colonies urging him to advise His Majesty in this sense.

11. Under the present Ordinance, if an elected Member is absent from the Colony for 12 months, the Governor shall declare his seat to be vacant. We are of opinion that this period is unduly long, and that if a member is likely to be absent for a lengthy period, it is only reasonable that he should resign.

In order, however, that he may be enabled to enjoy a reasonable period of leave, we consider that the period permitted without a by-election should be nine months. Clause 20 of the Bill reflects this recommendation.

12. It has been represented to us that it has been a frequent occurrence at elections in respect of the Indian Electoral Area, for agents of the candidates to fill in ballot papers belonging to illiterate voters. This practice is most undesirable, for the voter has no guarantee that he is voting for the candidate or candidates whom he wishes to be elected. We therefore recommend that this should be made an offence and paragraph (d) of Sub-Clause (1) of Clause 22 of the Bill reflects this recommendation.

13. It is open to doubt if, under the present Ordinance, payment by candidates to agents in respect of their general services is not an offence, although we feel that that was not the intention of the Legislature. We have therefore made it clear in the proviso to Clause 28 of the Bill that this is specifically excluded from the list of offences.

14. The remaining changes made in the Ordinance are of a purely formal character and introduce no new point of principle.

SCHEDULE I.

15. Part B reflects our recommendations for the divisions of the Indian Electoral Area. The population in the three areas is approximately proportional to the number of members to be elected.

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SCHEDULE II.

RULES FOR THE PREPARATION OF REGISTERS OF VOTERS.

16. The existing Rules, although they refer to the numbering of voters in the register, make no provision for such numbering. We are of opinion that the simplest manner of doing this is to classify the names of all voters into alphabetical divisions in accordance with the initial letter of the surname of each voter, and then to allot a serial number to each, each alphabetical division commencing with unity. Sub-Rule (2) of Rule 2 reflects this recommendation.

17. We gave consideration to the possibility of an arrangement whereby qualified persons would automatically have their names inserted on the Register of Voters, either by utilising Central Revenue Office records, or in some other fashion. Although the European Elected Members consider that such automatic registration would be desirable, we are satisfied that it is not practicable.

18. We consider that it should be possible for a registered voter who has changed his residence to have his name transferred to the Register of Voters in respect of the Electoral Area to which he has moved. Paragraph (b) of Sub-Rule 1 of Rule 4 makes the necessary provision.

19. We have had it in evidence that a number of frivolous or vexatious claims for insertion or alteration of names on the Register are made from time to time. We consider that the most satisfactory method of obviating such occurrences is to make provision for each claim or application being accompanied by a fee of five shillings, which shall be

Memorandum Report
~ 11 =

In order, however, that he may be enabled to enjoy a reasonable period of leave, we consider that the period permitted without a by-election should be nine months. Clause 20 of the Bill reflects this recommendation.

12. It has been represented to us that it has been a frequent occurrence at elections in respect of the Indian Lectoral Area, for agents of the candidates to fill in ballot papers belonging to illiterate voters. This practice is most undesirable, for the voter has no guarantee that he is voting for the candidate or candidates whom he wishes to be elected. We therefore recommend that this should be made an offence and paragraph (d) of Sub-Clause (1) of Clause 22 of the Bill reflects this recommendation.

13. It is open to doubt if, under the present Ordinance, payment by candidates to agents in respect of their general services is not an offence, although we feel that that was not the intention of the Legislature. We have therefore made it clear in the proviso to Clause 28 of the Bill that this is specifically excluded from the list of offences.

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Memorandum Report
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Memorandum Report
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forfeited if the application is, in the opinion of the Registering Officer frivolous or vexatious.

20. It has been represented that, after the Register of Voters has been published, the public have no information regarding the names of persons who have been added to or expunged from the Register. We therefore recommend that lists of such names should be published in the Official Gazette after the period for claims and objections has elapsed. Provision has been made accordingly.

21. The present rules, although providing for certification of a Register of Voters, do not specify the form which that certification should take. We have accordingly suggested in rule 6 a form of certificate which should in our opinion be universally adopted.

22. Under the present rules, additions to a Register of Voters are received from the 1st January until the 31st August, but the rules do not state explicitly that no further applications can be entertained after that date, although, in our opinion, such was the intention. We therefore recommend that this should be clearly stated and have embodied it in Sub-Rule (2) of Rule 7.

23. It is the duty of the Registering Officer when revising the Register of Voters to expunge the names of persons who may have become disqualified or have left the Electoral Area, or have not resided within the Electoral Area for a period of twelve months. We are informed that mistakes have been made in this regard without the knowledge of the persons affected, who in all probability

would not normally see a copy of the Official Gazette. We therefore consider it desirable to make it mandatory for all registering officers to notify persons whose names have been so expunged. Provision has been made accordingly in Sub-rule (2) of Rule 8.

24. We consider that the notice which is published in the press drawing attention to the fact that copies of the registers have been published in the Gazette, should briefly indicate the manner in which and the time within which claims can be made. Provision for this appears in Sub-Rule (3) of Rule 8.

25. We consider that Form B at present does not provide adequate information to identify the applicant for registration, and we have therefore added certain questions to be answered by each applicant. We are satisfied that these additions are necessary for the smooth working of the procedure.

SCHEDULE III.

RULES FOR THE ELECTION OF MEMBERS.

26. This Schedule has been recast in consequence of the alteration in the Indian Electoral Area, in order that the one set of Rules may suitably be applied to all contested elections.

27. Representations were made to us that it would be desirable that each nomination paper should be accompanied by a deposit which would only be returnable in the event of a candidate receiving a given proportion of the votes polled. The arguments in favour of this procedure are mainly that it precludes persons without any financial

status from standing for election, and it also precludes frivolous nominations. After full consideration, we recommend that a deposit of Shs. 1000/- should be lodged by each candidate and that that deposit should be forfeited if the candidate fails to secure one-sixth of the total number of votes polled for the Electoral Area for which he was a candidate for election.

(Major Cavendish Bentinck and Major Riddell consider that the fraction should be one-eighth).

Provision has been made in Rules 2 (3) and 35.

28. Under the existing Rules nomination papers can be handed in at any time before 1 p.m. on nomination day. We recommend that the period during which they can be handed in should begin at 9. a. m. and end at 12 noon. The reason for this recommendation is that, under present legislation it might be considered to be compulsory for the Returning Officer to be in attendance from twelve midnight, which is, in our view, entirely unnecessary.

29. Rule 11 merely repeats the present Rule 13. We realise however, that in the case of the Indian Electoral Areas, it will not be possible for polling to take place on one day, owing to the number of voters. We consider that it will probably take at least three days, but the actual number will be fixed by the Governor when the Gazette notice envisaged by the Rule is being drafted. The Governor will no doubt be advised by the Returning Officer in this regard. The Indian Members consider it desirable that one of the days allocated to the election of an Indian

candidate should be a Sunday or a public holiday.

30. We believe that voting by illiterate and semi-literate Indian voters would be considerably facilitated if a symbol appeared on the ballot paper against the names of the various candidates. We considered the possibility of each candidate selecting his symbol, but after consultation with the Government Printer, we are satisfied that this procedure might be unworkable, and we accordingly recommend that symbols be allotted to each candidate by the Governor. This recommendation is reflected in the proviso to Rule 11.

31. In Rule 18 we have amplified the description of the ballot papers, and, in the case of the Indian Electoral Areas, added provision for the symbols envisaged in the preceding paragraph, and for printing of the names of the candidates in English, Gujarati, Urdu and Gurmukhi, the object being to enable the voter, so far as possible to understand precisely for whom he is voting.

32. We have been informed that there is sometimes a tendency for persons to converse with voters in polling stations, with a view to persuading them to vote for a particular candidate. We consider that this is undesirable and that all possible steps should be taken to prevent it. After full consideration, we have decided to recommend that no person other than the Returning Officer, a Presiding Officer or a Deputy Presiding Officer shall be permitted to converse with a voter who enters a polling station for the purpose of recording his vote, and that the penalty shall be that the offender may be required to

leave the polling station. This recommendation is reflected in Rule 25.

33. The existing Rules do not permit of the candidates being present during the counting of the votes, but only their agents. We consider that the candidates themselves should have the right to be present, and have incorporated this provision in Rule 27(2).

SCHEDULE IV. VOTING BY POST RULES.

34. As the serial numbers of registered voters will if our recommendations are approved, have been published, we consider that an application for a postal ballot paper should show the voter's number in the register. This will enable the District Commissioner receiving the application readily to identify him.

35. We see no reason why a voter, who is without the Colony, should not vote if he so desires and if he is able to make the necessary arrangements in time. We therefore, recommend that provision should be made for a voter who may happen to be outside the Colony to fill in an application form for a postal ballot paper in front of a Notary Public and that should he so apply, he should be sent a postal ballot paper on payment of the necessary postal charges. This is reflected in Rules 1, 2(3) and 5(1).

36. We understood that, at the recent General Election a number of applications for postal ballot papers were made on the day of the poll, and that much inconvenience was thereby caused to the District Commissioner concerned, who also happened to be a Returning Officer.

-11-

We consider that this is undesirable, and therefore recommend that no postal ballot papers should be issued after 4 p.m. on the day preceding polling day.

37. We observe that the envelopes at present used for transmission of postal ballot papers are addressed "To the Returning Officer of the Electoral Area". This form of address may easily lead to misdirection of the envelopes by the postal authorities, as the identity of the various Returning Officers might easily not be known to the postal clerks and sorters who would deal with the matter. We recommend that administrative action be taken to ensure that the addresses on such envelopes should refer to the officer concerned by his proper title, e.g. "Resident Magistrate, Nairobi".

(Signed) W. HARRAGIN.
Attorney General, (Chairman).

(Signed) T.D.H. BRUCE.
Solicitor General.

(Signed) E.B. HOSKING.
Commissioner of Mines.

(Signed) F. CAVENDISH-BENTINCK.

(Signed) G.H. RIDDELL.

(Signed) A.C. TANNAHILL.

(Signed) N.S. MANGAT. (Subject to minute of dissent).

(Signed) J.B. PANDYA (Subject to minute of dissent).

Dated this 23rd January, 1955.

MINUTE OF DISSEM BY THE HON. J. B. PANDYA.

I differ from the majority Report with regard to the recommendations contained in paragraph 29 of the report about the number of days for polling in Indian elections. The recommendation of the majority, if accepted by the Government would mean practically no alteration in the present system by which 28 days are allowed for polling in Indian elections, except that the majority recommends that the number of days should be at least three, and that each time the actual number of days for polling should be gazetted.

We have had personal experience of the difficulties and enormous expenses involved in the present system which it is proposed to continue. It is both unfair to candidates and unnecessary, if polling is done under a better system, which could be easily devised, as was the case with informal elections of the Mombasa Municipality which were held last year at Mombasa, on the Legislative Council Roll, and were efficiently and without a hitch carried out in one polling day to the satisfaction of all concerned.

It is proposed to carry on with the old system, because it appears, the Government wish to consult their own convenience first, without having regard to the inconvenience or unnecessary heavy expenses to the parties concerned. The number of votes polled during the last very keenly contested Indian elections in Nairobi, were about 3,750, and in my opinion, it is unreasonable and ridiculous to suggest that a system could not be devised by which these numbers could poll on one day. It would not make any difference to the Government in expenses because with more days smaller staff will be sufficient

and the increased staff would be able to cope with the work in one day. But for any possible eventual saving in expenditure if the old system is continued it would be unfair to the candidates and to the Indian Community, because they will have in that case to incur very large expenses and suffer the inconveniences and anxieties of a lengthy polling. The new rules provide for quick identification in case of disputes and there is no possibility of the repetition of previous difficulties about identification of a voter. I have not heard any sound or convincing reason advanced in favour of the continuation of the present system, in the evidence, or in the report, and against one day polling which is desired by the Indian members.

I suggest, therefore, that there should be a provision in the rules that for Indian elections there should be one polling day but in any case not more than three days. If the number of days are not thus limited to three, it will be at the discretion of the Returning Officer to fix the number of days who will no doubt first consult his own convenience with a wide margin.

With regard to paragraph 19 about the frivolous and vexatious claims for insertions or alterations of names in the register, it is suggested by the Majority Report that a deposit fee of Shs.5/- should be paid for every such claim. This charge is too high and would discourage even the genuine claims. I suggest that the fee should be Shs.1/- instead of Shs.5/-.

With regard to Schedule 2 para 1/2 it was discussed in the Committee, and it was generally agreed and understood, that as far as the present Indian register of voters was concerned, it should be scrapped, and new register for each electoral area should be prepared.

There is no specific provision in the legislation, rules, or in the recommendations of the report to that effect. I should therefore like to suggest that provision for preparation for new register should be made as early as possible, after the legislation has been passed.

(Signed) J. B. PANDYA.

1st February, 1935.

NOTE BY THE HON. N. S. MANGAT.

I wish to associate myself with Mr. Pandya.

(Signed) N. S. MANGAT.

8th February, 1935.

COLONY AND PROTECTORATE OF KENYA



A BILL TO PROVIDE FOR THE NOMINATION
AND ELECTION OF MEMBERS TO THE
LEGISLATIVE COUNCIL OF THE COLONY
AND PROTECTORATE OF KENYA

1559-35c. C.C.-9235

PRINTED BY THE GOVERNMENT PRINTER, NAIROBI

A Bill to provide for the Nomination and Election of Members to the Legislative Council of the Colony and Protectorate of Kenya.

BE IT ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof as follows:—

1. This Ordinance may be cited as the Legislative Short title. Council Ordinance, 1935.

2. In this Ordinance, unless the contrary intention appears—

“British subject” includes persons who have been naturalized under any Imperial statute or under any enactment of a British possession, as well as the natural-born subjects of His Majesty;

“register” means the register, prepared in accordance with the provisions of this Ordinance, of the persons entitled to vote at the election of a member to represent any of the electoral areas referred to in section 3 of this Ordinance;

“member” means a member of the Legislative Council.

3. (1) There shall be elected to the Legislative Council in accordance with the provisions of this Ordinance, eleven European members, five Indian members, and one Arab member.

Representation of electorates.

(2) Such members shall represent the electoral areas described in Schedule I to this Ordinance as follows:—

- (a) One European member shall be elected for, and by the European voters of, each of the electoral areas described in Part A of that Schedule.
- (b) (i) Two Indian members shall be elected for, and by the Indian voters of, the Central electoral area described in Part B of that Schedule.
- (ii) Two Indian members shall be elected for, and by the Indian voters of, the Eastern electoral area described in Part B of that Schedule.

(iii) One Indian member shall be elected for, and by the Indian voters of, the Western electoral area described in Part B of that Schedule.

(c) One Arab member shall be elected for, and by the Arab voters of, the electoral area described in Part C of that Schedule.

Registering officers.

4. The Governor shall appoint for each electoral area one or more registering officers to perform the duties of registering officers under the Rules contained in Schedule II to this Ordinance.

Revising officer.

5. The Governor shall appoint a revising officer to perform the duties of revising officer under the Rules contained in Schedule II to this Ordinance.

Returning officer.

6. The Governor shall appoint a returning officer for each electoral area to perform the duties of returning officer under the Rules contained in Schedule III to this Ordinance.

Registers of voters.

7. For each electoral area a separate register of the persons entitled to vote in such area for the election of a member or members, as the case may be, shall be prepared, published and revised in the manner prescribed by the Rules contained in Schedule II and all amendments thereof.

Registers to be conclusive evidence.

8. The registers of voters for the time being in operation shall be conclusive evidence for the purpose of determining whether a person is or is not entitled to vote in any electoral area for the election of a member to represent such area.

Disqualification of voters.

9. No person shall be entitled to have his name on any register of voters if such person—

- (1) (a) is not a British subject of European origin or descent;
- (b) is not a British subject of Indian origin or descent, or is not an Indian under the suzerainty or protection of His Majesty; or
- (c) is not a male Arab, whether a British subject or under the protection or suzerainty of His Majesty, able to write Arabic or Swahili in Arabic characters;
- (2) has not attained the age of twenty-one years;
- (3) is, in the opinion of a competent court, of unsound mind;
- (4) has been convicted of a criminal offence and has been sentenced to a term of imprisonment for a term of twelve months or more and has not received a

pardon: Provided that such disqualification shall cease two years after the date of the expiration of the sentence;

(5) has, since the publication of the last revised register of voters, received relief from Government funds or from the funds of any local authority;

(6) has been declared bankrupt or insolvent by a competent court in the Colony or elsewhere and has not received his discharge;

(7) is suffering from any disqualification provided by any enactment for the time being in force;

(8) has not ordinarily resided in the Colony for at least one period of twelve consecutive months prior to the date of his application to have his name entered on the register;

(9) has not resided in the electoral area in which the application to have his name entered on the register is made for a period of not less than three months.

10. No person shall be entitled to be registered as a voter in, or to vote in, more than one electoral area.

Voters to be registered once.

11. Any person not otherwise disqualified under the provisions of this Ordinance, shall be entitled:—

Qualification for registration.

(a) If a British subject of European origin or descent, to have his name entered in the register of voters for one of the electoral areas described in Part A of Schedule I to this Ordinance.

(b) If a British subject of Indian origin or descent, or an Indian under the suzerainty or protection of His Majesty, to have his name entered in the register of voters for one of the electoral areas described in Part B of Schedule I to this Ordinance.

(c) If a male Arab, whether a British subject or under the protection or suzerainty of His Majesty, to have his name entered in the register of voters for the electoral area described in Part C of Schedule I to this Ordinance.

12. (1) Any person who is qualified to be registered and is registered as a voter shall, subject to the provisions of section 8 of this Ordinance and sub-section (2) of this section, be eligible for election as a member for any electoral area.

Disqualification of candidates.

(2) A person shall be disqualified for election as a member to represent any electoral area if such person—

- (a) has not ordinarily resided in the Colony for at least one period of two years before being nominated as a candidate;
- (b) is in the permanent employment of the Government or is serving the Government for a term of years;
- (c) is an employee of any municipality or municipal board;
- (d) has been convicted of a criminal offence and has been sentenced to a term of imprisonment for a term of six months or more, and has not received a pardon: Provided that the Governor in Council may, by order, in any particular case remove such disqualification;
- (e) has, within the last twelve months immediately preceding the date of his nomination, received relief from Government funds or from the funds of any local authority;
- (f) cannot read, write and speak the English language.

(3) A candidate for election who has undertaken either directly or indirectly himself or by any one in trust for him any contract with a Government department for which the consideration exceeds seventy-five pounds; shall not be disqualified for election provided that, at least fourteen days before the date appointed for the election, he publishes in a newspaper circulating in the electoral area for which he is a candidate a notice of the fact of such contract, giving particulars thereof.

(4) If any elected member after his election undertakes any such contract either directly or indirectly himself or by any one in trust for him, he shall forthwith inform the clerk to the council of the fact of such contract, giving particulars thereof. The clerk shall publish the fact in the Gazette.

(5) The election of any candidate who fails to comply with the provisions of sub-section (3) of this section shall be invalid, the seat shall be deemed to be vacant, and the candidate shall be liable, on conviction, to the penalty prescribed in section 23 of this Ordinance and to the disqualification therein provided.

(6) Any member who fails to comply with the provisions of sub-section (4) of this section shall forfeit his seat, and shall be liable, on conviction, to the penalty prescribed in section 26 of this Ordinance and to the disqualification therein provided.

13. Every candidate for election as a member for any electoral area shall be nominated by being proposed, seconded and supported by not less than seven persons other than the proposer and the seconder. The proposer, seconder and supporters shall be persons registered as voters in the electoral area for which the candidate is nominated.

Candidates to be proposed, seconded and supported.

14. Subject always to the power of the Governor to dissolve the Legislative Council at any time by Proclamation, the Council shall be dissolved on the expiration of a period of three years from the date of each general election and a general election shall thereafter be held on the first convenient date after such dissolution of the Council. For the purposes of this Ordinance the date of a general election shall be the date of the nomination day referred to in section 15 of this Ordinance.

Dissolution and general election.

15. As soon as may be after the dissolution of each Legislative Council the Governor shall, by notice in the Gazette, appoint a convenient day, to be known as nomination day, which shall be not less than twenty-one days after the publication of such notice. In such notice the Governor shall further appoint a place in each of the electoral areas referred to in section 8 of this Ordinance for the nomination of candidates for that electoral area.

Nomination day.

16. A member elected at a general election shall hold his seat, subject to the provisions of this Ordinance, for a period of three years after such general election, or until the dissolution of the Council to which he is elected, whichever is the sooner.

Election to be for three years.

17. (1) The election of members shall be by ballot, and shall be held in accordance with the procedure prescribed by the Rules contained in Schedule III to this Ordinance.

Election procedure.

(2) Each voter may give one vote only for each of any number of persons not exceeding the number to be elected for the electoral area in which the voter is entitled to vote.

18. Whenever the Governor has appointed a nomination day for any electoral area and no candidate therefor has been nominated in accordance with section 13 of this Ordinance the Governor may, in his discretion, nominate a person or persons who is or are eligible for election in such electoral area to be the member or members, as the case may be, for that electoral area.

Where no candidate nominated.

19. Any person who has been elected as a member for any electoral area may, by writing under his hand, resign his seat.

Resignation of member.

Absence of member.

20. Where an elected member for any electoral area leaves the Colony without resigning his seat, the Governor may nominate any properly qualified person who would be eligible for election in that electoral area to act as member for such electoral area during the absence of such elected member. Provided that, if any elected member shall be absent from the Colony for a period of nine consecutive months, the Governor shall declare his seat to be vacant.

By-election.

21. (1) Whenever, from any cause other than the dissolution of Council, a seat in any electoral area becomes vacant the Governor shall, in manner provided by section 16 of this Ordinance, appoint a day and place for the nomination of candidates for such electoral area and, subject to the provisions of section 19, shall direct that a member be elected to fill the vacancy in accordance with the provisions of this Ordinance and of any Rules made hereunder.

(2) Any member so elected or who has been nominated in accordance with the provisions of section 17 of this Ordinance, shall, subject to the provisions of this Ordinance, hold his seat until the dissolution of the Council to which he is so elected or nominated.

PENAL PROVISIONS.

Offences.

22. (1) Any person who—

- (a) forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to the returning officer any nomination paper, knowing the same to be forged; or
- (b) forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper; or
- (c) without due authority supplies any ballot paper to any person; or
- (d) without due authority makes any mark on any ballot paper issued to any person other than to himself; or
- (e) fraudulently inserts into any ballot box any paper other than the ballot paper which he is authorized by law to insert; or
- (f) fraudulently takes out of the polling station any ballot paper; or
- (g) without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election, shall be guilty of an offence, and shall on conviction be liable to imprisonment for any term not exceeding six months.

(2) Any attempt to commit any of the offences specified in this section shall be punishable in the same manner in which the offence itself is punishable.

(3) In any prosecution for an offence in relation to nomination papers, ballot boxes, ballot papers, and marking instruments at an election, the property in such papers, boxes and instruments may be stated to be in the returning officer at such election, as well as the property in the counterfoils.

Secrecy of ballot.

23. (1) Every officer, clerk, and agent in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in such station, and shall not, before the poll is closed, communicate, except for some purpose authorized by law, to any person any information as to the name or number on the register of any elector who has or has not applied for a ballot paper or voted at that station, or as to the official mark.

(2) No such officer, clerk, agent, or any other person shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote or has voted, or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any voter in such station is about to vote or has voted, or as to the number on the back of the ballot paper given to any voter at such station.

(3) Any person who acts in contravention of the provisions of this section shall, on conviction, be liable to imprisonment for any term not exceeding six months.

Secrecy of ballot.

24. (1) Every officer, clerk, and agent in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not attempt to ascertain at such counting the number on the back of any ballot paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular ballot paper.

(2) No person shall directly or indirectly induce any voter to display his ballot paper after such voter has marked the same, so as to make known to any person the name of the candidate for or against whom he has so marked his vote.

(3) Any person who acts in contravention of the provisions of this section shall on conviction be liable to imprisonment for any term not exceeding six months.

- (d) Every person who upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement procures or engages, promises, or endeavours to procure the return of any person as a member, or the vote of any voter at any election under this Ordinance.
- (e) Every person who advances or pays or causes to be paid any money to or to the uses of any other person, with the intent that such money or any part thereof shall be expended in bribery at any election under this Ordinance, or who shall knowingly pay or cause to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any such election.
- (f) Every voter who, before or during any election under this Ordinance, directly or indirectly, by himself or by any other person on his behalf, receives, agrees, or contracts for any money, gift, loan, or valuable consideration, office, place, or employment, for himself or for any other person, for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any such election.
- (g) Every person who, after any election under this Ordinance, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or to refrain from voting at any such election.

Provided always that nothing in this section contained shall extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses bona fide incurred in connection with any election; Any money or valuable consideration received by an agent from a candidate in return for his general services as an agent to such candidate shall for the purposes of this proviso be deemed to be legal expenses bona fide incurred.

GENERAL.

29. (1) No election of a member shall be valid if any corrupt practice is committed in connection therewith by the candidate elected.

Corrupt practice.

(2) The expression "corrupt practice" as used in this Ordinance means any of the following offences, namely, treating, undue influence, bribery, and personation.

(3) A corrupt practice shall be deemed to be committed by a candidate if it is committed with his knowledge and consent) or by a person who is acting under the general or special authority of such candidate with reference to the election.

30. No election shall be invalid by reason of a non-compliance with Rules. if it appears that the election was conducted in accordance with the principles laid down in such rules, or that such non-compliance did not affect the result of the election.

31. (1) If the validity of an election is brought into question by any person qualified either to be elected or to vote at such election, on the ground of the improper rejection or reception of a nomination or of a vote, or of any corrupt practice in connection with such election, or for any other cause, such person may, at any time within fifteen days of the publication of the result of such election in the Gazette, apply to the Governor in Council to set aside such election.

Disputes as to validity of elections.

(2) The Governor in Council shall, after such inquiry, if any, as he may consider necessary, declare by notice in the Gazette, whether the candidate whose election is questioned or any or what other person is duly elected, or whether the election is void.

(3) If the election is declared void, the Governor shall by notification in the manner provided by section 15 of this Ordinance appoint another date for the election of a member for the electoral area concerned.

(4) The Governor in Council may appoint any person having judicial experience to be a commissioner to inquire into and report on the grounds on which the validity of any election is brought into question as aforesaid; and every such commissioner shall have all the powers of a commissioner appointed under the Commissions of Inquiry Ordinance or any law amending or replacing the same.

Cap. 25.

(5) The Governor in Council may, from time to time, make rules for regulating the practice and procedure to be observed in connection with inquiries under this section.

Power to
supplement
rules in
Schedules.

32. (1) The Governor in Council may, from time to time, make rules to supplement the rules contained in Schedules II and III to this Ordinance or to rescind, vary or amend any such rules.

(2) All rules so made shall be published in the Gazette, and shall thereupon, subject to the provisions of the next following sub-section, be as legal, valid, effectual and binding as if they had been enacted in this Ordinance.

(3) All rules made in pursuance of this section shall be laid as soon as conveniently may be before the Legislative Council; and, if a resolution is passed within forty days of their being so laid before the Legislative Council praying that any such rule shall be annulled, such rule shall thenceforth be void, but without prejudice to anything done thereunder.

(4) The Governor in Council may from time to time make rules dispensing with the attendance of voters at an election and providing for the transmission of votes by post or otherwise.

33. The decision of the Governor in Council on any question which may arise as to the intention, construction, or application of this Ordinance and of the rules thereunder shall be final.

34. The Legislative Council Ordinance and all rules made thereunder are hereby repealed.

SCHEDULE I.

PART A.

ELECTORAL AREAS.

1. Nairobi North. ✓
2. Nairobi South. ✓
3. Mombasa. ✓
4. Coast. ✓
5. Nyanza. ✓
6. Rift Valley. ✓
7. Trans Nzoia. ✓
8. Uasin Gishu. ✓
9. Aberdare. ✓
10. Ukamba. ✓
11. Kiambu. ✓

Power of
Governor to
decide ques-
tions arising
under
Ordinance,
Cap. 24.

DESCRIPTION OF THE BOUNDARIES OF THE ELECTORAL AREAS.

1. Nairobi, North.

Commencing at the junction of the Gethathuru and Nairobi Rivers;

thence bounded by the Nairobi River down-stream to its junction with the Ngong River;

thence by that river up-stream to its junction with the Kenya and Uganda Railway;

thence by the Kenya and Uganda Railway (up-line) to its intersection with the eastern boundary of Kiambu Native Reserve at Kabete Station;

thence generally northerly by that Native Reserve boundary to the Gethathuru River;

thence by that river down-stream to the point of commencement.

2. Nairobi, South.

Commencing at the junction of the Kenya and Uganda Railway with the Ngong River;

thence by that river up-stream to its junction with the Mtioni River;

thence by that river up-stream to a bridge on the Nairobi-Ngong Road;

thence by a line northerly to a beacon at the south-western corner of L.R. No. 189 A.R. (Government Farm extension) which beacon is on the Kiambu Native Reserve boundary;

thence generally northerly by that Native Reserve boundary to its intersection with the Kenya and Uganda Railway at Kabete Station;

thence by that railway (down-line) to the point of commencement.

3. Mombasa.

This area comprises the whole of the Island of Mombasa.

4. Coast.

Commencing at the intersection of the Engare Len or Rombo River with the Kenya-Tanganyika boundary;

Power to
supplement
Rules in
Schedules.

32. (1) The Governor in Council may, from time to time, make rules to supplement the rules contained in Schedules II and III to this Ordinance or to rescind, vary or amend any such rules.

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SCHEDULE I

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ELECTORAL AREAS.

1. Nairobi North. ✓
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6. Rift Valley. ✓
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11. Kiambu. ✓

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thence generally northerly by that Native Reserve boundary to the Gethathuru River;

thence by that river down-stream to the point of commencement.

2. Nairobi, South.

Commencing at the junction of the Kenya and Uganda Railway with the Ngong River;

thence by that river up-stream to its junction with the Mtionji River;

thence by that river up-stream to a bridge on the Nairobi-Ngong Road;

thence by a line northerly to a beacon at the south-western corner of L.R. No. 189 A.R. (Government Farm extension) which beacon is on the Kiambu Native Reserve boundary;

thence generally northerly by that Native Reserve boundary to its intersection with the Kenya and Uganda Railway at Kabete Station;

thence by that railway (down-line) to the point of commencement.

3. Mombasa.

This area comprises the whole of the Island of Mombasa.

4. Coast.

Commencing at the intersection of the Engare Len or Rombo River with the Kenya-Tanganyika boundary;

thence bounded easterly by the northern boundary of Teita Administrative District, as defined by Proclamation No. 54, dated 25th day of February, 1924, to its most eastern corner;

thence north-easterly and north-westerly by the south-eastern and north-eastern boundaries of Kitui Administrative District, as defined in the aforementioned Proclamation, to its most northern corner;

thence by a line north-easterly to a point near the southern end of the Lorian Swamp where the Lak Deru intersects the line of latitude 1° north;

thence easterly by that line of latitude, to its intersection with the western boundary of Italian Somaliland;

thence southerly by a part of the western and south-easterly by the south-western boundary of Italian Somaliland to the shores of the Indian Ocean;

thence generally, south-westerly by the shores of the Indian Ocean to its intersection with the Kenya-Tanganyika boundary;

thence north-westerly and generally northerly by the Kenya-Tanganyika boundary to the point of commencement;

All the islands within the Protectorate with the exception of the Island of Mombasa, form part of the Coast Electoral Area.

6. Nyanza.

Commencing at the mouth of the Sio River;

thence bounded north-easterly by the Uganda Protectorate boundary to the highest point of Mount Elgon;

thence by a straight line north-easterly to the source of the Swam (or Spum) River;

thence by that river down-stream to the point where it emerges from the crater;

thence south-easterly by the south-western boundary of the Trans Nzoia Administrative District, as defined by Proclamation No. 54 dated 25th day of February, 1924, to where the Kabisai and Nzoia Rivers join at the most southerly point of L.R. No. 5350;

thence south-easterly, south-westerly and easterly by part of the generally western boundary of the Usain Gishu District, as defined by the aforementioned Proclamation, to the trigonometrical beacon Osorongai;

thence by a line bearing 85° 11' for about 17,041 feet to a beacon;

thence bearing approximately 167° 21' for about 5,944 feet to a beacon;

thence bearing approximately 112° 36' for about 2,244 feet to a beacon;

thence bearing approximately 187° 11' for about 3,800 feet to a beacon on the south-eastern of the two summits of the hill "Kalkomor";

thence bearing approximately 176° 11' for about 5,054 feet to a beacon;

thence bearing approximately 161° 34' for about 6,168 feet to a beacon;

thence by a beaconed line bearing 180° 28' for about 18,107 feet to the trigonometrical beacon "Kakaroua";

thence by a straight line, south-easterly to the western corner of L.R. No. 3167;

thence by the south-western boundary of that portion to its southern corner;

thence generally north-easterly and south-easterly by the generally western boundary of the Usain Gishu Administrative District, as defined in the aforementioned Proclamation, to the most western corner of L.R. No. 1860;

thence generally southerly by the generally eastern boundary of the Kisumu-Londiani Administrative District, as defined in the aforementioned Proclamation, to the most northern corner of L.R. No. 570/1;

thence south-westerly and south-easterly by the north western and part of the south-western boundaries of that portion to the northern corner of L.R. No. 7148;

thence southerly and easterly by the western and southern boundaries of that portion to the western corner of L.R. No. 3039;

thence southerly by the western boundaries of L.R. Nos. 3033, 561 and part of the western boundary of 5692 to the northern corner of L.R. No. 1042;

thence south-westerly, south-easterly and easterly by the north-western and south-western boundaries of that portion to its most southern corner;

thence south-westerly, south-easterly, easterly and again south-easterly by the generally western, southern and south-western boundaries of L.R. No. 1643 to the western corner of L.R. No. 1644;

thence south-easterly by part of the western boundary of that portion to its intersection with the eastern boundary of Kericho Administrative District as defined in the aforementioned Proclamation;

thence south-westerly, south-easterly and again south-westerly by the generally eastern and south-eastern boundaries of that district to its most southern corner on the Amala River;

thence by that river down-stream to its intersection with the Tanganyika boundary;

thence by that boundary north-westerly to the shores of Victoria Nyanza;

thence generally northerly by the shores of that lake to the point of commencement.

The whole of the islands in Victoria Nyanza within the Territorial Waters form part of Nyanza Electoral Area.

6. Rift Valley.

Commencing at the intersection of the Amala River with the Kenya-Tanganyika boundary;

thence bounded by that river up-stream to the most southern corner of Kericho Administrative District as defined by Proclamation No. 54 dated the 25th day of February, 1924;

thence generally north-easterly, north-westerly and again north-easterly by the generally eastern boundary of that district to its intersection with the south-western boundary of L.R. No. 1644;

thence north-westerly by that boundary to the north-western corner of that portion;

thence generally westerly, north-westerly and north-easterly by the southern and generally western boundaries of L.R. No. 1643 to its north-western corner;

thence westerly, north-westerly and north-easterly by the southern, south-western and north-western boundaries of L.R. No. 1642 to its most northern corner;

thence northerly by part of the western boundary of L.R. No. 5692 and the whole of the western boundaries of L.R. Nos. 561 and 3683 to the north-western corner of L.R. No. 3683;

thence south-westerly and northerly by the southern and western boundaries of L.R. No. 7148 to its most northern corner;

thence north-westerly and north-easterly by a part of the south-western and the whole of the north-western boundary of L.R. No. 570/1 to its most northern corner;

thence in a generally northerly direction by the generally eastern boundary of the Kisumu-Londiani Administrative District, as defined by the aforementioned Proclamation, to the most westerly corner of L.R. No. 1860;

thence north-easterly by the north-western boundary of that portion to the south-western corner of L.R. No. 3841;

thence generally easterly, northerly, south-easterly and again northerly by the generally south-eastern boundary of that portion to the south-eastern corner of L.R. No. 1886;

thence north-easterly and northerly by the generally eastern boundaries of L.R. No. 1866 and L.R. No. 0259 to the north-eastern corner of the latter portion;

thence easterly by the northern boundary of L.R. No. 503 to the intersection of that boundary with the western boundary of Baringo Administrative District, as defined in the aforementioned Proclamation, thence northerly by the western boundary of that district to its most northerly point at Kolosin;

thence south-easterly, southerly, south-westerly and again south-easterly by the north-eastern and generally eastern boundary of that district to the most northerly corner of L.R. No. 2689/R;

thence generally south-easterly by the north-eastern boundary of Nakuru Administrative District, as defined by the aforementioned Proclamation, to the south-eastern corner of L.R. No. 2648/B;

thence easterly and generally southerly by part of the northern and the whole of the eastern boundary of the Naivasha Administrative District, as defined in the aforementioned Proclamation, to the south-eastern corner of L.R. No. 869;

thence, by a line, south-westerly to the most northerly point of Lake Magadi;

thence by the western shores of that lake to its most south-westerly point;

thence by a line, south-easterly, to the point of intersection of the Southern Uaso Nyiro River with the Kenya-Tanganyika boundary;

thence, north-westerly, by that boundary, to the point of commencement;

Provided that the township of Kijabe shall be included within this electoral area (No. 6, Rift Valley).

7. *Trans Nzola*.

Commencing at the point where the Swam (Swam) River emerges from the Crater of Mount Elgon;

thence bounded by that river down-stream till it becomes the Turkwel;

thence by that river down-stream to where it enters Lake Rudolf;

thence southerly by the eastern boundary of Turkana Administrative District, as defined by Proclamation No. 54 dated the 25th day of February, 1924, to the falls on the Amaya River (about longitude $36^{\circ} 24'$ east and latitude $0^{\circ} 55'$ north);

thence north-westerly by a part of the south-western boundary of Turkana Administrative District, as defined by the aforementioned Proclamation, to Kolobai;

thence generally south-westerly by the eastern and south-eastern boundaries of the West Suk Administrative District, as defined by the aforementioned Proclamation, to the northern corner of L.R. No. 7146;

thence generally south-easterly, south-westerly and north-westerly by the north-eastern, south-eastern and south-western boundaries of the Trans Nzola Administrative District, as defined by the aforementioned Proclamation, to the point of commencement.

8. *Uasin Gishu*.

Commencing at the trigonometrical beacon Olessoe, on the Uasin Gishu Administrative District boundary as defined by Proclamation No. 54 dated 25th day of February, 1924;

thence bounded in a north-westerly, south-westerly and westerly direction by that Administrative District boundary to the southern corner of L.R. No. 8167;

thence, by the south-western boundary of that portion to its western corner;

thence by a straight line north-westerly to the trigonometrical beacon Kakaroua;

thence by a beacons line bearing approximately $0^{\circ} 28'$ for about 18,107 feet to a beacon;

thence bearing approximately $841^{\circ} 34'$ for about 6,168 feet to a beacon at the end of a spur;

thence bearing approximately $356^{\circ} 11'$ for about 5,034 feet to a beacon on the south-eastern of the two summits of the hill Kalkomot;

thence bearing approximately $7^{\circ} 11'$ for about 3,800 feet to a beacon;

thence bearing approximately $392^{\circ} 36'$ for about 2,244 feet to a beacon;

thence bearing approximately $7^{\circ} 21'$ for about 5,914 feet to a beacon on the southern boundary of L.R. No. 5598;

thence westerly by parts of that southern boundary and that of L.R. No. 4126 to the trigonometrical beacon Osorongai on the Uasin Gishu Administrative District boundary;

thence by that district boundary westerly, northerly and north-easterly to the northern corner of L.R. No. 2211;

thence generally north-westerly, north-easterly and southerly by part of the south-western and the whole of the northern and eastern boundaries of Marakwet Administrative District, as defined in the aforementioned Proclamation, to the north-eastern corner of the Elgeyo District;

thence southerly and westerly by the eastern and southern boundaries of the Elgeyo Administrative District, as defined in the aforementioned Proclamation, to the north-western corner of L.R. No. 503, Lembus Forest Concession (the Districts of Marakwet and Elgeyo have now been amalgamated under the name of Elgeyo District, vide Proclamation No. 8 dated 8th day of February, 1932);

thence southerly by the eastern boundaries of L.R. Nos. 8259 and 1866 to the south-eastern corner of the latter portion;

thence southerly, north-westerly, and again southerly, and westerly by the generally south-eastern boundary of L.R. No. 3841 to its intersection with the Uasin Gishu Administrative District boundary;

thence by that district boundary westerly and northerly to the point of commencement.

9. *Aberdare.*

Commencing at the summit of Niandarawa (Mount Kinangop);

thence bounded northerly by the western boundary of the South Nyeri Administrative District, as defined by Proclamation No. 54 dated 25th day of February, 1924, to the summit of Satimma (13,003 feet);

thence still generally northerly by the western boundary of Laikipia Administrative District, as defined in the aforementioned Proclamation, to the summit of Ol Doinyo Lengere;

thence south-easterly and northerly by part of the south-western and the whole of the eastern boundary of Turkana Administrative District, as defined in the aforementioned Proclamation, to the mouth of the Turkwel River;

thence by a straight line northerly through the summit of North Island to its intersection with the southern boundary of Abyssinia;

thence generally easterly by that southern boundary to its intersection with the north-western boundary of Italian Somaliland;

thence south-westerly by part of the north-western boundary and southerly by part of the western boundary of Italian Somaliland to the intersection of the latter boundary with the line of latitude 1° north;

thence by that line of latitude westerly to its intersection with the Lak Dera near the southern end of the Lorian Swamp;

thence by a line south-westerly to the eastern corner of Meru Administrative District;

thence generally south-westerly by the south-eastern boundaries of Meru and Embu Administrative Districts and westerly by the southern boundary of South Nyeri Administrative District, as defined by the aforementioned Proclamation, to the point of commencement.

10. *Ukamba.*

Commencing at the junction of Southern Uaso Nyiro River with the Tanganyika boundary;

thence bounded by a line north-easterly to the most south-westerly point on Lake Magadi;

thence by the western shores of that lake to its most northerly point;

thence by a line north-easterly to the south-eastern corner of L.R. No. 369;

thence generally easterly by the southern boundaries of Kiambu and Nairobi Administrative Districts, as defined by Proclamation No. 54 dated the 25th day of February, 1924, to the intersection of the latter with the western boundary of the Machakos Administrative District as defined by the aforementioned Proclamation;

thence generally north-easterly by the north-western boundary of Machakos District to the junction of the Athi and Ndarugu Rivers;

thence by the latter river up-stream to the south-western corner of original L.R. No. 290;

thence north-easterly and south-easterly by the north-western and part of the north-eastern boundary of that portion to the south-western corner of original L.R. No. 295;

thence north-easterly, north-westerly, and again north-easterly by the generally western boundary of that portion to its intersection with the Chania River;

thence north-westerly and northerly by the south-western boundary of the Fort Hall Administrative District, as defined by the aforementioned Proclamation, to the summit of Niandarawa (Mount Kinangop);

thence generally easterly by the generally northern boundary of Fort Hall Administrative District to the most eastern corner of L.R. No. 1002;

thence north-easterly by a part of the north-western boundary of Kitui Administrative District, as defined by the aforementioned Proclamation, to its most northern corner;

thence south-easterly and south-westerly by the whole of the north-eastern and south-eastern boundaries of that district to the north-eastern corner of the Teita District as defined by the aforementioned Proclamation;

thence westerly by the northern boundary of that district to its intersection with the Tanganyika boundary;

thence by that boundary north-westerly to the point of commencement.

11. *Kiambu*.

Commencing at the south-eastern corner of L.R. No. 369;

thence bounded generally northerly by a part of the generally eastern boundary of the Naivasha Administrative District as defined by Proclamation No. 64 dated 25th day of February, 1924, to the eastern point of L.R. No. 5287 on the Chania River;

thence by that river (which forms a part of the south-western boundary of the Fort Hall Administrative District) down-stream to the north-western corner of original L.R. No. 295;

thence south-westerly, south-easterly and again south-westerly by the generally north-western boundary of that portion to its intersection with the north-eastern boundary of original L.R. No. 290;

thence north-westerly and south-westerly by a part of the north-eastern and the whole of the north-western boundary of that portion to its western corner on the Ndarugu River;

thence by that river down-stream to its junction with the Athi River;

thence south-westerly by the north-western boundary of Machakos Administrative District to the intersection of the north-western boundary of L.R. No. 337 (Athi Township Reserve) with the Athi River;

thence generally westerly by the generally southern boundaries of Nairobi and Kiambu Administrative Districts to the point of commencement;

Provided that the township of Kijaba be excluded from this electoral area (No. 11, Kiambu):

Provided that Electoral Areas No. 1, Nairobi North, and No. 2, Nairobi South, shall be excluded from this electoral area (No. 11, Kiambu).

PART B.

Electoral Areas.

1. The Central electoral area shall include the following districts:—

Nairobi, Fort Hall, South Nyeri, North Nyeri, Embu, Meru, Thika, Kiambu, Northern Frontier.

2. The Eastern electoral area shall include the following districts:—

Digo, Mombasa, Kilifi, Tana River, Lamu, Machakos, Kitui, Teita.

3. The Western electoral area shall include the following districts and all the other districts in the Colony which are not specially mentioned in the Central or Eastern electoral areas:—

Masai, Naivasha, Laikipia, Nakuru, Ravine, Baringo, Nandi, Uasin Gishu, Elgeyo, Trans Nzoia, Central Kavirondo, North Kavirondo, South Kavirondo, Kismu-Londiani, Kericho, Turkana and West Suk.

PART C.

The Colony and Protectorate.

SCHEDULE II.

RULES FOR THE PREPARATION OF REGISTERS OF VOTERS.

1. (1) When it is necessary to prepare a new register for any electoral area, the Colonial Secretary shall publish a notice in the Gazette calling upon all persons residing in such area who are desirous of having their names registered in the register for such electoral area to forward their claims, within forty-two days from the date of the publication of the notice, to the registering officer appointed for such electoral area.

Notice inviting claims of voters.

(2) In the case of registers for any of the electoral areas described in Part B of Schedule I to the Ordinance, every claim shall be made in the Form B appended to these Rules.

(3) In the case of the register for the electoral area described in Part C of Schedule I to the Ordinance, every claim shall be made in the Form C appended to these Rules.

(4) Every claim shall be signed by the claimant.

Preparation of register of voters.

2. (1) Upon the expiration of the aforesaid period of forty-two days the registering officers of the electoral areas concerned shall prepare a separate register for each of the electoral areas in respect of which the notification has, under sub-Rule (1) of Rule 1 of these Rules, been published.

(2) In preparing the register, the registering officer shall classify the names of all voters into alphabetical divisions in accordance with the initial letter of the surname of each voter. The registering officer shall then allot a serial number to each name registered. The first serial number shall, in the case of each alphabetical division, be unity. The alphabetical letter of the division together with such serial number shall form the serial number of the voter, and is hereinafter so referred to.

Notice of completion of registers.

3. On the completion of the registers, copies thereof shall be forwarded by the registering officers to the Colonial Secretary who shall cause the registers to be published in the Gazette. The Colonial Secretary shall at the time of publication give notice in the English language in the principal newspapers circulating in the Colony that copies of the registers have been published as aforesaid, and that the registers, or copies thereof, are open for inspection at all reasonable hours of the day at the offices of the registering officers of the several electoral areas, and at such other places, if any, as shall be specified in the notice.

Claims and objections.

4. (1) (a) Every person, who is qualified to have his name entered on the register for any electoral area and whose name is omitted from such register, who claims to have it inserted therein may apply to the registering officer for such electoral area to have his name so inserted.

(b) For the purpose of this Rule the words "omitted from such register" shall be deemed to include the name of any person who is registered in one electoral area and who has qualified by residence to have his name inserted in the register for another electoral area.

(2) Every person whose name appears in the register for any electoral area and who objects to the name of any other person or to his own name appearing therein may apply to the registering officer for such electoral area to have such name expunged from the register.

(3) (a) An application under sub-Rule (1) or sub-Rule (2) of this Rule shall be made in writing not later than four weeks after the date of the publication of the register in the Gazette, and shall set out the grounds of the application and shall give an address for the receipt of notices.

(b) Such application shall be accompanied by the sum of five shillings which shall be returned to the applicant by the registering officer after the claim or objection, as the case may be, has been heard as provided in sub-Rule (4) of this Rule. Provided that, if the application is, in the opinion of the registering officer, frivolous or vexatious such sum shall be forfeited to His Majesty.

(4) The registering officer shall inquire into all claims and objections in open court and shall give ten days' notice of such inquiry by posting a written hearing notice to each applicant, and to each person objected to, and by affixing a similar notice on some conspicuous part of the court.

(5) (a) As soon as possible after the said inquiry the registering officer shall insert in the register and allot a serial number to the name of any applicant whose claim to have his name so inserted has been proved to the satisfaction of the registering officer, and shall expunge from the register the name of any person who has been proved to the satisfaction of the registering officer to be disqualified from having his name retained in the register.

Provided that no name, to which an objection has been raised under this Rule, shall be expunged from the register unless the applicant appears at the inquiry in person, or by a representative duly authorized by him in writing, in support of his objection and proves to the satisfaction of the registering officer that the person in respect of whom he has raised the objection is disqualified from having his name retained in the register.

(b) The registering officer shall as soon as possible forward a list of the names together with the serial numbers, so inserted in or expunged from the register, as the case may be, to the Colonial Secretary who shall cause such list to be published in the Gazette.

(c) The registering officer shall, at the time of entering in the register the name and serial number of any person to whom paragraph (b) of sub-Rule (1) of this Rule applies, notify in writing the registering officer for the electoral area in which such person formerly resided and is registered, and

such notification shall be sufficient authority for the registering officer to whom it is addressed to expunge from the register the name of such person.

5. (1) If any applicant under Rule 4 of these Rules is dissatisfied with the decision of the registering officer, he may, within ten days from the date thereof, appeal to the revising officer.

(2) Every such appeal shall be in writing and shall state shortly the ground of appeal.

(3) The revising officer shall hear the appeal at such time and at such place as to him may seem fit: Provided that he shall in writing give ten days' notice of the hearing of the appeal to the applicant and to the person objected to, as the case may be.

(4) When the revising officer has determined all the appeals which have been lodged with respect to any register, he shall forward to the registering officer concerned and to the Colonial Secretary a statement under his hand of the names and serial numbers which he has decided shall be inserted in or expunged from the register and the Colonial Secretary shall cause such statement to be published in the Gazette.

(5) There shall be an appeal from the decision of the revising officer to the Supreme Court.

6. Within a period of ten days after the publication of the statement in the Gazette as prescribed in sub-Rule (4) of Rule 5 of these Rules, the registering officer shall certify the register in the following form:—

I,,
the Registering Officer for the Electoral
Area of hereby certify that this
register is the register of voters for the said electoral area
as and at the date of this certificate.

Station.....

Date Signature.

Appeal from
decision of
registering
officer.

Certification
of register.

ANNUAL REVISION OF VOTERS.

7. (1) On or before the thirty-first day of December in every year the Colonial Secretary shall publish a notification in the Gazette calling upon all persons desirous of having their names inserted in the register for any electoral area to forward their claims to the registering officer for such area. Such claims must reach the registering officer before the first day of September in the year next following the year in which the notification was published.

Notice inviting
claims.

(2) If any claim is received on or after the first day of September such claim shall not be considered for the revision in respect of which it was made, but shall be placed on record and receive consideration when the next annual revision is undertaken.

8. (1) Every registering officer shall, not later than thirty days after the said first day of September, prepare a revised register, comply with the provisions of Rule 2 (2) of these Rules and forward a copy of the revised register to the Colonial Secretary together with a list of all names which have been inserted in or expunged from the register, as the case may be.

Preparation of
revised
registers.

(2) In preparing such registers the registering officers shall include the names of all persons who appear to be entitled to have their names inserted therein, and shall expunge from the registers the name of any person who is dead or who has become disqualified or who has permanently left the electoral area or who has not resided in the electoral area within the preceding twelve months. The registering officer shall also correct any mistake or supply any omission which appears to him to have been made in the register. It shall be the duty of the registering officer to post to each person, whose name has been expunged from the register under the provisions of this Rule on the ground that such person has become disqualified or has left the electoral area or has not resided in the electoral area within the preceding twelve months, an intimation that his name has been so expunged.

(3) The Colonial Secretary shall as soon as possible after the receipt of the registers cause copies thereof to be published in the Gazette, together with a list of all names of persons which have been inserted in and expunged from the register; and notice shall be given in the principal newspapers circulating in the Colony that copies of the register, and of the list of names so inserted and expunged, have been published as aforesaid, and that registers or copies thereof are open

for inspection at all reasonable hours of the day at the offices of the registering officers of the several electoral areas, and at such other places, if any, as shall be specified in the notice. Such notice shall include a short statement as to the manner in which and the time within which claims and objections may be made.

Claims and
objections with
regard to
revised
register.

9. (1) Claims and objections may be made with regard to the revised registers in manner provided by Rule 4 of these Rules and within the time therein prescribed. Such claims shall be heard and determined by the registering officer in the manner provided by the said Rule.

(2) Appeals may be made to the revising officer from the decision of the registering officer in the manner prescribed by Rule 5 of these Rules and the revising officer, the registering officer and the Colonial Secretary shall respectively proceed as therein provided.

(3) There shall be an appeal from the decision of the revising officer in any case to the Supreme Court.

(4) The registering officer shall certify the revised registers within the period and in manner provided by Rule 6 of these Rules and the registers so certified shall come into operation on the date of such certification and shall continue in operation until superseded by other revised registers.

FORM A.

To the Registering Officer of the Electoral Area of

I claim to have my name inserted in the list of persons entitled to vote for the election of a member to represent the Electoral Area.

Name in full (in block capitals)

Husband's name (if married)

Residential address

Postal address

Passport number, if any

Occupation

I hereby certify that I am qualified to have my name inserted in the register of voters for the above area, and that I do not suffer from any of the disqualifications set out in section 9 of the Legislative Council Ordinance, 1935.

Date

Signature or thumb print
mark of Applicant.

(Print section 9 of the Ordinance on the back of the Form).

Form B.

To the Registering Officer.

The Indian Electoral Area.

I claim to have my name inserted in the list of persons entitled to vote for election of the Indian Members to represent the Indian Electoral Area.

Name in full

Surname (if any)

Father's name in full

In case of married women or widows, husband's name in full

Address (Residential and Postal)

Occupation

Number and date of passport, or driving licence, or poll tax receipt, or trading licence, or birth certificate.

I hereby certify that I am qualified to have my name inserted in the register of voters for the above area and that I do not suffer from any of the disqualifications set out in section 9 of the Legislative Council Ordinance, 1935, of which I have been read by me.

I have full knowledge, the same having been explained to me as reproduced on the reverse of this form.

Signature or thumb print
mark of Applicant.

(Print section 9 of the Ordinance on the back of the Form).

Form (C)

To the District Commissioner,

I claim to have my name inserted in the list of persons entitled to vote for the election of an Arab Member of the Legislative Council.

Name in full.

Address and occupation.

Questions to be answered by the Applicant.

- (1) State nationality.
- (2) State age.
- (3) Have you been convicted of a criminal offence and sentenced to a term of imprisonment of either description for a term of 12 months or more? If so, have you received a pardon?
If imprisoned when did such imprisonment expire?
- (4) Have you received relief from any public funds whatsoever within 12 months of your application?
- (5) Have you been declared bankrupt or insolvent by a competent court in the Colony or elsewhere and not received your discharge?
- (6) When did you first enter the Colony.
- (7) Can you write Arabic or Swahili in Arabic characters?

.....
Signature or thumb print
mark of Applicant.

SCHEDULE III

RULES FOR THE ELECTION OF MEMBERS.

1. Any person not ineligible for election may be nominated as a candidate for election.

2. (1) Each candidate shall be nominated by means of a separate nomination paper signed by not less than nine persons, whose names are on the register of voters for the electoral area for which the candidate seeks election, as proposer, seconder and supporters, each of whom shall certify that in his opinion such candidate has such a knowledge of the English language as will enable him to take part in the proceedings of the Council.

(2) The signatures of the proposer and seconder and supporters shall be witnessed by a magistrate, justice of the peace, or by a notary public.

(3) Every nomination paper shall be in the Form A annexed to these Rules and shall be accompanied by a deposit of one thousand shillings.

3. The returning officer shall, at any time between the date of the notification published under section 15 of the Ordinance and before the hour of 12 noon on nomination day, supply a nomination paper to any registered voter who applies for one.

4. (1) Every nomination paper subscribed and witnessed as aforesaid and accompanied by the deposit prescribed in sub-Rule (3) of Rule 2 of these Rules shall be delivered to the returning officer by the candidate or by his proposer or seconder between the hours of 9 a.m. and 12 noon on the day and at the place appointed for the nomination of the candidates.

(2) Nomination papers which are delivered after the hour of 12 noon shall be rejected.

5. On the day appointed for the nomination of a member for any electoral area, every candidate and his proposer, seconder and one other person selected by the candidate, and no persons other than the aforesaid, shall, except for the purpose of assisting the returning officer, be entitled to attend the proceedings during the time appointed for nomination.

Examination of nomination papers.

6. The returning officer shall permit the candidates and their proposers and seconders and the person, if any, selected by the candidate as aforesaid, to examine the nomination papers of candidates which have been received for the electoral area concerned.

Description of candidates in nomination papers.

7. (1) Each candidate shall be described in the nomination paper in such manner as, in the opinion of the returning officer, is calculated sufficiently to identify such candidate.

(2) No objection to a nomination paper on the ground that the description of the candidate therein is insufficient or that the nomination paper is not in accordance with these Rules shall be allowed or deemed to be valid, unless such objection is made by the returning officer or by some other person within one hour after the time of delivery of the nomination paper.

(3) The decision of the returning officer as to the sufficiency or validity of any nomination paper shall be final.

Where candidates are opposed.

8. If at 12 noon on the day appointed as the nomination day for any electoral area, candidates not exceeding the number to be elected for that electoral area are nominated, the returning officer shall forthwith declare such candidates to be elected, and shall report such election to the Colonial Secretary, who shall cause a notification of such result to be published in the Gazette.

Withdrawal of candidate.

9. A candidate may, before 12 noon on nomination day but not afterwards, withdraw from his candidature by giving a notice to that effect signed by him to the returning officer.

Where candidates are opposed.

10. If more candidates than the number to be elected are duly nominated for any electoral area the returning officer shall adjourn the election for the purpose of taking a poll, and shall report to the Governor the names of the candidates as described in their respective nomination papers.

Notice that poll will be taken.

11. Upon receipt of such report the Governor shall cause to be published in the Gazette and also in such local newspapers as he may think fit, a notice specifying—

(a) The electoral area for which a poll will be taken.

(b) The date on which the poll will be taken, which shall not be sooner than fourteen days after the date of publication under this Rule of the notice, in the Gazette.

(c) The names of the candidates as described in their respective nomination papers and the names of their proposers and seconders and supporters; and

(d) The places at which a poll will be taken, and the portion of the electoral area allotted to each polling station.

Provided that where the electoral area is an area described in Part B of Schedule I to the Ordinance the Governor shall cause a symbol of identification to be allotted to each candidate, and, when publishing the names of the candidates as provided in paragraph (c) of this Rule, shall publish together with such names a facsimile of the symbol allotted to each candidate.

12. If, after an election has been adjourned for the purpose of taking a poll, one of the candidates nominated dies before the poll has commenced, the Governor shall, upon being satisfied of the fact of such death, countermand the notice for the poll, and shall appoint in manner prescribed by section 21 of the Ordinance, a fresh date for the election. In such case all proceedings with reference to the election shall be re-commenced; Provided that no new nomination shall be required in respect of a candidate who had been duly nominated at the time of the countermand of the poll.

Death of candidate before poll taken.

13. The Governor shall appoint a person (in these Rules called a "presiding officer") to preside at each polling station. Such presiding officer shall be supplied with a copy of the register of voters containing the names of voters in the area assigned to his polling station.

Presiding officer.

14. The Governor may appoint at each polling station one or more deputy presiding officers, one of whom, to be selected by the presiding officer, shall act as presiding officer in the event of illness or unavoidable absence of the presiding officer. A deputy presiding officer when so acting shall exercise all the powers and perform all the duties of the presiding officer under these Rules.

Deputy presiding officers.

15. No person shall be admitted to vote at any polling station except the one allotted to him.

Restriction of voting to proper polling stations.

16. Unless the Governor, by notification in the Gazette, appoints any other hour, the poll shall open at 8 a.m. and shall close at 6 p.m., on the same day.

Time for opening and closing poll.

Duty of presiding officers.

17. The presiding officer shall keep order in his station, and shall regulate the number of electors to be admitted at a time, and shall exclude all other persons, except the clerks, the agents of the candidates and the police officers on duty.

Form of ballot papers.

18. (1) Each ballot paper for use in connection with the election of a member for the electoral areas described in Part A of Schedule I to this Ordinance shall be capable of being folded up and shall—

- (a) contain a list of the candidates as described in their respective nomination papers;
- (b) have a number printed on the back thereof;
- (c) have attached a counterfoil on which shall be printed the same number as appears on the back of the ballot paper;
- (d) be printed so that the name of each candidate is adjacent to the square in which the voter is to record his vote; and
- (e) shall, so far as is possible, be in the Form B annexed to these Rules.

(2) Each ballot paper for use in connection with the election of members for the electoral areas described in Part B of Schedule I to the Ordinance shall be capable of being folded up and shall—

- (a) contain a list of the candidates as described in their respective nomination papers together with the symbol of identification allotted to each candidate in accordance with the proviso to Rule 11 of these Rules. The names of the candidates shall be printed in English, Gujarati, Urdu and Gurmukhi;
- (b) have a number printed on the back thereof;
- (c) have attached a counterfoil on which shall be printed the same number as appears on the back of the ballot paper;
- (d) be printed so that the name and symbol of identification of each candidate is adjacent to the square in which the voter is to record his votes; and
- (e) shall, so far as is possible, be in the Form C annexed to these Rules.

Ballot boxes.

19. (1) Every ballot box shall be so constructed that the ballot papers can be inserted therein, but cannot be withdrawn therefrom without the box being unlocked.

(3) The presiding officer shall, immediately before the commencement of the poll, show the empty unlocked ballot box to such persons, if any, as may be present in the polling station, so that they may see that it is empty. The presiding officer shall then lock the ballot box and place his seal upon it in such a manner as to prevent it being opened without breaking the seal, and shall place it in his view for the receipt of ballot papers, and keep it so locked and sealed.

Closing of ballot box.

20. (1) Immediately before a ballot paper is delivered to a voter it shall be marked on both sides with an official mark, either stamped or perforated.

Delivering of ballot papers to voters.

(2) The serial number, name and description of the voter, as stated in the copy of the register of voters, shall after being called out, and the serial number of such voter shall be marked on the counterfoil, and a mark shall be placed in the register against the number of the voter to denote that he has received a ballot paper.

21. (1) The voter on receiving the ballot paper shall forthwith proceed to a place screened from observation, which shall be provided by the presiding officer, and there mark his paper by placing the mark X (and no other mark, writing or signature) opposite the name or names of the candidate or candidates, as the case may be, whom he selects.

Manner of voting.

(2) The voter shall then fold the ballot paper so as to conceal his vote, and insert the ballot paper, so folded, into the ballot box.

(3) He shall vote without undue delay, and shall quit the polling place as soon as he has inserted his ballot paper into the ballot box.

22. A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used as ballot paper may, on delivering to the presiding officer the ballot paper so inadvertently dealt with and proving the fact of the inadvertence to the satisfaction of the presiding officer, obtain another ballot paper in the place of the ballot paper so delivered up (in these Rules, called a "spoilt ballot paper"), and the spoilt ballot paper shall be immediately cancelled.

Spoilt ballot paper.

23. If any voter states that he is illiterate or is unable to mark his ballot paper, the presiding officer shall—

Provision for illiterates.

(a) cause the ballot paper of such voter to be marked as the elector directs, and then insert the ballot paper in the ballot box; and

Duty of presiding officers.

17. The presiding officer shall keep order in his station, and shall regulate the number of electors to be admitted at a time, and shall exclude all other persons, except the clerks the agents of the candidates and the police officers on duty.

Form of ballot papers.

18. (1) Each ballot paper for use in connection with the election of a member for the electoral areas described in Part A of Schedule I to this Ordinance shall be capable of being folded up and shall—

- (a) contain a list of the candidates as described in their respective nomination papers;
- (b) have a number printed on the back thereof;
- (c) have attached a counterfoil on which shall be printed the same number as appears on the back of the ballot paper;
- (d) be printed so that the name of each candidate is adjacent to the square in which the voter is to record his vote; and
- (e) shall, so far as is possible, be in the Form B annexed to these Rules.

(2) Each ballot paper for use in connection with the election of members for the electoral areas described in Part B of Schedule I to the Ordinance shall be capable of being folded up and shall—

- (a) contain a list of the candidates as described in their respective nomination papers together with the symbol of identification allotted to each candidate in accordance with the proviso to Rule 11 of these Rules. The names of the candidates shall be printed in English, Gujarati, Urdu and Gurumukhi;
- (b) have a number printed on the back thereof;
- (c) have attached a counterfoil on which shall be printed the same number as appears on the back of the ballot paper;
- (d) be printed so that the name and symbol of identification of each candidate is adjacent to the square in which the voter is to record his votes; and
- (e) shall, so far as is possible, be in the Form C annexed to these Rules.

Ballot boxes.

19. (1) Every ballot box shall be so constructed that the ballot papers can be inserted therein, but cannot be withdrawn therefrom without the box being unlocked.

(3) The presiding officer shall, immediately before the commencement of the poll, show the empty unlocked ballot box to such persons, if any, as may be present in the polling station, so that they may see that it is empty. The presiding officer shall then lock the ballot box and place his seal upon it in such a manner as to prevent it being opened without breaking the seal, and shall place it in his view for the receipt of ballot papers, and keep it so locked and sealed.

Closing of ballot box.

20. (1) Immediately before a ballot paper is delivered to a voter it shall be marked on both sides with an official mark, either stamped or perforated.

Delivering of ballot papers to voters.

(2) The serial number, name and description of the voter, as stated in the copy of the register of voters, shall then be called out, and the serial number of such voter shall be marked on the counterfoil, and a mark shall be placed in the register against the number of the voter to denote that he has received a ballot paper.

21. (1) The voter on receiving the ballot paper shall forthwith proceed to a place screened from observation, which shall be provided by the presiding officer, and there mark his paper by placing the mark X (and no other mark, writing or signature) opposite the name or names of the candidate or candidates, as the case may be, whom he selects.

Manner of voting.

(2) The voter shall then fold the ballot paper so as to conceal his vote, and insert the ballot paper, so folded, into the ballot box.

(3) He shall vote without undue delay, and shall quit the polling place as soon as he has inserted his ballot paper into the ballot box.

22. A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used as ballot paper may, on delivering to the presiding officer the ballot paper so inadvertently dealt with and proving the fact of the inadvertence to the satisfaction of the presiding officer, obtain another ballot paper in the place of the ballot paper so delivered up (in these Rules called a "spoilt ballot paper"), and the spoilt ballot paper shall be immediately cancelled.

Spoilt ballot papers.

23. If any voter states that he is illiterate or is unable to mark his ballot paper, the presiding officer shall—

Provision for illiterates.

- (a) cause the ballot paper of such voter to be marked as the elector directs, and then insert the ballot paper in the ballot box; and

(b) write in the register opposite the name of such voter a statement of the fact that the ballot paper was marked by him at the request of the voter, and the reason therefor.

Application for voting paper in name of person who has already voted.

34. (1) If a person representing himself to be a particular voter named in the register of voters applies for a ballot paper after another person has voted as such voter, the applicant shall, upon marking and subscribing a declaration in the form provided in this Rule, be entitled to mark a ballot paper in the same manner as any other voter.

(2) Such ballot paper (in these Rules called a "tendered ballot paper") shall be of a colour different from the other ballot papers, and, instead of being put into the ballot box, shall be given to the presiding officer and endorsed by him with the name of the voter, and his serial number in the register of voters.

(3) Such ballot papers shall be set aside in a separate packet and shall not be counted by the returning officer.

(4) The name of the voter and his serial number on the register shall be entered on a list in these Rules called the "tendered votes list".

Form of Declaration.

I, A.B., of solemnly and sincerely declare that I am the same person whose name appears as A.B., No. in the register of voters in force for the electoral area of

Witness: C.D.

Presiding Officer.

(Signed) A.B.

25. No person other than the returning officer, presiding officer, or a deputy presiding officer shall have any communication whatsoever with a voter while such voter is in a polling station for the purpose of receiving a ballot paper and recording his vote thereon. Should any such communication take place, the presiding officer may order such person to leave the polling station.

28. The presiding officer of each polling station shall, as soon as practicable after the close of the poll, in the presence of the agents (if any) of the candidates, make up into separate packets, seal with his own seal and the seals of the agents of the candidates who desire to affix their seals

Despatch of ballot boxes, etc. to returning officer.

- (a) the ballot box unopened, but with the key attached;
(b) the unused and spoilt ballot papers placed together;
(c) the marked copies of the register of voters and the counterfoils of the ballot papers; and
(d) the packet containing the tendered ballot papers and the tendered votes list.

and shall despatch or hand over such packets and ballot box to the returning officer.

COUNTING VOTES.

27. (1) The returning officer shall make arrangements for counting the votes as soon as practicable after he has received all the ballot boxes relating to any electoral area, and for that purpose shall give notice in writing of the time and place at which he will begin to count the votes.

Notice of time for counting votes.

(2) Each candidate and his agent shall have the right to be present at the counting of the votes.

28. Any ballot paper which has not on its back an official mark or on which votes are given to more than one candidate, or on which anything except the number on its back is written or marked by which the vote can be identified, shall be void, and shall not be counted.

Rejection of ballot papers.

29. The returning officer shall endorse "Rejected" on any ballot paper which he may reject as invalid.

Marking rejected ballot papers.

30. The returning officer shall not open the sealed packet of tendered ballot papers, but shall retain the same, unless such packet is required for the purposes of an inquiry under section 23 of the Ordinance.

Tendered ballot papers.

31. The decision of the returning officer as to any question arising in respect of any ballot paper shall be final.

Finality of decision of returning officer.

32. When the counting of the votes has been completed, the returning officer shall forthwith declare the candidate to whom the greatest number of votes has been given to be elected: Provided that upon the application of any candidate or his agent a recount shall be made before the returning officer makes the declaration.

Declaration of poll.

Equality of
votes.

33. When an equality of votes is found to exist between any candidates, and the addition of a vote would entitle any one of the candidates to be declared elected, the determination of the candidate to whom such one additional vote shall be deemed to have been given shall be made by lot in the presence of the returning officer in such manner as he shall think fit.

Disposal of
ballot papers.

34. The returning officer shall, upon the completion of the counting and after he has declared the result, seal up the voting papers and all other documents relating to the election, and shall retain the same for a period of six months, and thereafter, unless otherwise directed by an order of the Governor, cause them to be destroyed.

Refund of
deposit.

35. The returning officer shall as soon as may be convenient to him refund to each candidate the deposit of one thousand shillings made in accordance with the provisions of sub-Rule 2 (8) of these Rules: provided that, should any candidate fail to obtain one-sixth of the total votes polled for the electoral area for which he was a candidate for election, such deposit shall be forfeited to His Majesty.

Publication
of election.

36. The returning officer shall without delay report the result of the election to the Governor who shall cause the name of the member elected to be published in the Gazette.

FORM A. (RULE 2 (8))

Nomination Paper for Electoral Area.

1. Name in full of candidate.
2. Address.
3. Occupation.
4. Name of proposer.
5. Name of seconder.
6. Names of supporters.

We the undersigned proposer, seconder and supporters hereby certify that the above-named candidate has such a knowledge of the English language as will enable him to take part in the proceedings of the Council.

Signed by the above named (proposer)
in my presence this day of 19.....
A.B. (a Magistrate, Justice of the Peace or a Notary Public).

Signed by the above named (seconder)
in my presence this day of 19.....
C.D. (a Magistrate, Justice of the Peace or a Notary Public).

Handed in at a.m. on the
day of 19.....

To be followed by witnesses of signatures of supporters

*Here insert description of electoral area.

FORM B. (RULE 18 (1)).

| | |
|---|---|
| Number of Ballots to be Issued | THE COLONY AND PROTECTORATE OF KENYA |
| The Colony and Protectorate of Kenya The Leg. Co. Ord., 1935 | THE LEGISLATIVE COUNCIL ORDINANCE, 1935 |
| Form B | Form B (Rule 18 (1) of Sch. III of the Ordinance) |
| BALLOT PAPER | BALLOT PAPER |
| COUNTY POLICE | (The Electoral Area) |
| 1 A.B. | 1 A.B. |
| 2 C.D. | 2 C.D. |
| Official Mark | P.T.O. |
| [Space] | |
| Number (to correspond to the number on the counterfoil) | |
| | BALLOT PAPER |
| Official mark | |
| Election for the Electoral Area of | |
| Date | |

FORM C

Form C

Rule 18 (2) of Sch. III of the Ord.

THE COLONY AND PROTECTORATE
OF KENYATHE LEGISLATIVE COUNCIL
ORDINANCE, 1935

The INDIAN ELECTORAL AREA

BALLOT PAPER

| No. | Name | Symbol of Identi- fication |
|-----|------|----------------------------------|
| 1. | A.B. | |
| 2. | C.D. | |
| 3. | E.F. | |
| 4. | | |
| 5. | | |
| 6. | | |
| 7. | | |
| 8. | | |
| 9. | | |
| 10. | | |

Instructions to Voter

Mark the ballot paper by placing the mark X opposite the names of the candidates you wish to be elected. A mark may not be placed against the name of more than one candidate. Do not place more than one mark against the name of any individual candidate.

Make no other mark whatever on the front of the form.

Fold the right-hand portion of the form over the centre, so as to bring the back of the form uppermost. Then fold the left-hand portion over this bringing the counterfoil uppermost.

Your vote will thereby be doubly concealed.

SERIAL No.
[BACK]
BALLOT PAPER

Official
Mark
Election for the _____ Indian Electoral
Area.
Date _____

Voter's Serial Number in Register _____

Official mark

[P.T.O.]

SERIAL No.
THE COLONY AND
PROTECTORATE OF
KENYA

The Legislative Council
Ordinance, 1935

The
INDIAN ELECTORAL
AREA

COUNTERFOIL OF
BALLOT PAPER

Voter's Serial Number
in Register _____

SCHEDULE IV

VOTING BY POST RULES.

- (1) In any election of a member under the provisions of the Legislative Council Ordinance, 1935, any elector who satisfies a District Commissioner either orally or in writing—
 - (a) that he resides at least ten miles from the nearest polling station at which he is entitled to vote; or
 - (b) that he has reason to believe that on the polling day he will not be within ten miles of the polling station at which he is entitled to vote; or
 - (c) that on account of ill-health and infirmity he will be prevented from voting;

may apply to the said District Commissioner for a postal ballot paper.

(2) Such application shall be in writing, shall contain the serial number of the voter, as it appeared in the Gazette, and shall be signed by the voter.

(3) The signature thereto shall be certified by a district officer, justice of the peace or commissioner for oaths, if the applicant is within the Colony, or by a notary public if the applicant is not within the Colony.

(4) (1) If the District Commissioner is satisfied as to the applicant's right to vote he shall furnish him with a postal ballot paper: Provided that the District Commissioner shall not issue a postal ballot paper after the hour of four o'clock in the afternoon of the day preceding the day on which polling is to take place.

(2) If the District Commissioner is not satisfied as to the applicant's right to vote, he shall give the applicant notice that he is not so satisfied, and that the applicant should attend personally at the proper polling station to record his vote.

(3) If the applicant is not within the Colony, such ballot paper may be posted to him by air mail should the applicant so request and should the necessary postal charges thereon be tendered by such applicant at the time of his application.

(4) Each postal ballot paper shall, so far as is possible, conform to the forms annexed to Schedule III to the Ordinance and shall, in addition, have a number marked on the back corresponding to the registered serial number of the voter to whom it is issued, and shall have the same serial number marked on the face of the counterfoil. The counterfoil shall

contain a space for the voter's signature and for the signature of the witness thereto as provided for by these Rules, and shall be capable of being folded up so that the counterfoil shall be visible.

4. (1) The District Commissioner shall inform the returning officer of the electoral area for which the applicant is registered as a voter of the fact that a postal ballot paper has been sent to such applicant, and shall, at the same time, forward to the returning officer the written application of the said applicant.

(2) The returning officer shall, if possible, before the ballot notify the presiding officer at every polling station at which the register is published the applicant's name appears is used, the fact of the issue of such ballot paper.

5. (1) A voter who has applied for and obtained a postal ballot paper shall, in order to record his vote, produce the same to any postmaster, magistrate, or justice of the peace within the Colony; or to a notary public if the voter is not within the Colony. He shall then mark each paper by placing the mark X opposite the name of the candidate for whom he votes, but so that the postmaster, magistrate, justice of the peace or notary public, as the case may be, shall not see such mark. No other mark, writing, or signature save as herein provided, shall be placed by the voter on the postal ballot paper. The voter shall then fold the postal ballot paper so as to conceal his vote, and shall sign his name thereon in the place provided on the counterfoil in the presence of the postmaster, magistrate, justice of the peace or notary public, as the case may be, who shall witness such signature.

(2) If the voter is within the Colony he shall then enclose the ballot paper in the envelope provided, and hand it to the postmaster, magistrate, or justice of the peace, as the case may be, who shall post the ballot paper or deliver it personally to the returning officer as soon as possible.

(3) If the voter is not within the Colony he shall enclose the ballot paper in the envelope provided and post or otherwise transmit it to the returning officer as soon as possible.

(4) The returning officer for the area in which the voter is registered on the receipt of an envelope containing a postal ballot paper shall keep the same until the close of the poll.

6. At the count of the poll the returning officer shall produce unopened all envelopes containing ballot papers received by him before the close of the poll, and shall open such envelopes in the presence of a presiding officer or deputy presiding officer of the electoral area concerned.

7. (1) The returning officer shall then produce all applications for postal ballot papers and, without unfolding the postal ballot paper or allowing it to be inspected, compare the signature of the voter on the counterfoil of the postal ballot paper with the signature on the application, and shall allow the presiding officer or deputy presiding officer referred to in Rule 6 of these Rules to inspect the signatures. The returning officer shall determine whether or not the signatures on the counterfoil of the postal ballot paper is that of the applicant.

(2) If the postal ballot paper is allowed by the returning officer, he shall tear off the counterfoil containing the voter's name and, without looking at the name of the candidate for whom the voter has voted, shall insert the folded postal ballot paper in a special ballot box provided for the reception of postal ballot papers. When all such postal ballot papers have been so inserted in such ballot box the counting of the votes so recorded therein shall commence.

(3) The list of the numbers of votes received by each candidate shall show separately the votes tendered personally and the votes tendered by postal ballot papers.

8. If a postal ballot paper is filled up or otherwise dealt with in a manner contrary to that provided by these Rules, the returning officer shall disallow such postal ballot paper, and the vote shall not be counted.

9. If the returning officer disallows any postal ballot papers, such postal ballot papers shall be enclosed in a sealed packet, which the returning officer shall retain in his custody unless it is required for the purposes of any inquiry under the Ordinance.

10. The returning officer's decision in respect of any postal ballot paper shall be final.

11. Any person who attempts to induce any person in his employ to obtain a postal ballot paper with the intention of influencing such last-mentioned person by bribery or intimidation to record his vote in favour of any particular candidate shall be liable on conviction to a penalty not exceeding seventy-five pounds.