

1928

Kenya

Enclosure to 10533/376

(1)

(2/5)

No. 15033

SUBJECT

Local Government of
Nairobi Town

Commission of Enquiry

Previous

x 10220/27

Subsequent

15407/28

P. Gov. Barkham Conf. 193. — 16th Decr 1927
Transmits three copies of memorandum by C. A.
Indian National Congress on the Report. Suggestions
will be submitted to next Indian Parliament of the
Report.

Tr. Allen

Pl. see w/e enclosed

Gifford
19. 1. 28

I have discussed this with
Mr Allen & send on diff. papersⁱⁿ - herewith
with which he agrees.

R. W. Selwin

21. 1. 28

Mr Wiseman agrees that it would
be injudicious to read the draft as
amended, and he has revised it.

Original para: 2. Something of the kind
showed for in a private letter to
Dutton. The implication is the
drafted that Indian members do
not need his consent and should
be allowed to remain, and I should have
thought it clear that this was just the
sort of thing that should be dealt with
promptly. Probably, if it had been,
we should have had no outbreak
against the Governor after the
meeting of the Congress.

Original para: 3. Slightly modified down to
this to show some reason for the
the general talk of non-cooperation has

to be
10 Dec 27
Gifford

stopped

6. 28 24.1.28

Mr. C. D. ...

But E. J. ... will not like this in view of what has gone before but I don't know what else you can say!

R.H.V.

- 1a. To you copy 27.1.28
- 2. India Office 28 Jan 28
Two copy of paraphrase telegram received from Govt of India regarding report of Indian Commission and express concurrence with suggestions put forward.

... of No. 2. I had No. 1(a) ante-dated by the day in order to show that the policy suggested by the Government of India of delaying action on the Nairobi recommendations has been arrived at independently by the ...

It seems fairly clear from the ...'s report No. 1 in the file, that we ... have further information from the Colonial Government before they take action on the ...

the Feetham recommendations, but as the Governor may be proposing to write to us, it seems best to let him have a short telegram to know that the Government of India have made these representations, and that we will have to consider them. This may lead him to delay arriving at any final view on the recommendations, and any delay in the matter is all to the good.

It will be seen as an alternative that the Government of India suggest that the number of Indian representatives on the Nairobi Corporation should be increased from 5 as recommended by the Feetham Commission to 7, and that in the case of Mombasa, the number of Elected Indians and Europeans should be equal. The Feetham proposals for Nairobi were 9 Elected Europeans, 3 Elected Indians, 1 Nominated Govt. Government representative, 1 Railway and District Council representative, total 14. For Mombasa, their recommendations were a total of 19 Members as a minimum, (or 23 as a maximum), the representation to be as follows:- On a minimum basis of 19, 3 Official Members, 10 European representatives (6 Elected, 5 Nominated), 4 Indian representatives, (3 Elected, 1 Nominated), 1 Arab representative (Elected), 1 Govt. representative (Nominated). On the maximum basis of 23, an addition of 2 Europeans, 1 Elected and 1 Nominated, and of 2 Indians, both Nominated.

Drafts herewith for consideration. A copy of our telegram and despatch to go to India Office if ...

So proceed? But the claim for the maintenance of the Indian proportionate representation in Nairobi, irrespective of what executive European interests are thrown into the town by ...

on the basis of these things
price.

Wed. 1. 2. 28.

Mrs. Amosby fare.

Do suppose we must write
to Sir & Jugg as proposed.
He will not be best pleased
at what must appear to him
an attempt on the part of the
Govt of India to interfere

R.H.

2.7.28

DESTROYED UNDER THE PROVISIONS OF THE DEFENCE ACT 1939

37 Aug 28

to C. W. Comp (2) - 6 Feb 28

to I.O. (w/ copies 3 + 4) 8 FEB 1928 B/Ta

to House of Commons - 7 Feb 28

Question by Col. Wedgwood.

(1 N 1 1/2 (14 Feb))

India Office 4 Feb 28 at 11
Enclosed paraphrase of further
telegram from Govt of India.

In view of No. 5 (Amendment)
I had already the Amendment, then
as I think be
part of

at 11:00 AM
8/2/28

I have discussed with Mr. ...
first piece of the minutes. He does not
bring the point (concerning ... S.O.
action is concerned) - I am afraid of it,
on further course, with one final
uncollege of the ... the
referred.

Partly Wed. 10.2.28
at once

DESTROYED UNDER THE PROVISIONS OF THE DEFENCE ACT 1939

Parliamentary } by Col. Wedgwood - attached
with official report. (being Chancellor
of the Exchequer whether in connection with
inquiry into existence of rates, report of
Mr. Justice Latham will be considered.)

Partly by

(Authy on H.C.)

H. Ashworth

16/2/28

at once.

9 Goo Grigg, Tel. Nairobi, 10/2/28
 In view of statement by Sir S. Milton Young
 it is clear that there should not be any further
 delay in regard to reports on Nairobi and
 Mombasa. Enquiries whether modified
 recommendations can be considered.

The Secretary of State has not seen this
 file since he came back. The matter starts
 with our telegram of the 27th August (No. 21
 in X.10220), the gist of which was as follows:-

"I am prepared to approve generally
 recommendations of Commission regarding Nairobi
 and environs unless any serious obstacle from
 public opinion has arisen since publication of
 report, or appears to you likely to arise."
 On August 30th Sir E. Grigg announced to the
 Legislative Council of Kenya as follows:-

The recommendations regarding Nairobi have
 been approved by the Secretary of State, and I
 hope that legislation will be introduced
 promptly to give effect to those recommendations."

On 14th January we received the despatch
 (No. 1 on this file), forwarding a Memorandum
 dated 12th August, addressed to the Secretary
 of State by the Secretary to Executive Committee
 of the East Africa India National Congress,
 objecting to the proposals of the Commission as
 regards Nairobi and Mombasa. This despatch,
 with the reply (No. 1 on this file), as also the
 private and personal telegram of the 9th
 January, 1928 on the file, Nos. 2, 3, 4, and 7

This file should be read.

Draft reply com. ^{is} herewith
 (which I have already
 discussed with you) R. W. Simon
 21.2.28.

It is clear that if the legislation
 can be passed on non-controversial lines

It is very much better to get it out of the way, so
 that the apprehension of the... may be
 removed.
 But the Government... interested...
 maintain on this point... I think
 he will give full weight to it now.

21.2.28

[Signature]
 22.2.28

Been by 10/2/28
 9a from I agree
 10 Feb to Gov (9 a.m.) 23 Feb 28
 22.2.28
 Taking no action on para 2 of
 J. of G. despatch of 28/1/28.

11 Copy to Gov 4/3/28 in 136 (see in file)

12 Goo Grigg, Kenya Tel. 10/2/28 - 5th March 28
 Submits observations on views expressed by
 the Govt of India.

My minute of the 21st of February on the pre-
 ceding page explains the history of this matter, and
 quotes our telegram of the 27th of August which lays
 down the policy of this Office, which has been to se-
 cure a settlement of this question on lines which
 would not involve racial controversy. Consequently,
 the Governor's present telegram misses the point,
 since it treats the matter as if it were one raised
 by the Government of India, and as if the only propo-
 sals to be considered were the actual suggestions
 of the Government of India. We had already told the
 Governor in our telegram of the 3rd of February (that
 No 3 on file)

the

the Secretary of State's views as regards Nairobi had been arrived at independently of the Government of India, but this point is ignored. Consequently, the suggestion that the Legislative Council should be told that the Nairobi reforms have to be held up in deference to the political exigencies in India would also be incorrect since the view adopted in this Office has been taken up irrespective of the position in India, but ~~in~~ in the light of actual incidents in Kenya. The actual position has been that so long ago as the 12th of August last the Indians of Kenya wrote a memorial to the S. of S. appealing against the Feetham proposals, and the Govt. of India warned ~~see~~ see telegram of 20th January in No. 2, that if they were persisted in, the political situation in Kenya might become worse. The latest news we have on the subject was in the "Times" of the 5th of March which reported that as a result of resolutions passed at the recent Session of the Indian Congress, no Indian candidates were forthcoming for four vacant Indian seats in the Legislature, and that the elections had been postponed. They have, therefore, already drifted into effect action which has hitherto been threatened.

It was to avoid a recrudescence of political agitation, and to provide a calm atmosphere for the reception of the Hilton Young proposals on more important matters, that we suggested the postponement of the Nairobi legislation until after the Hilton Young report had been considered. This was one of the grounds urged also by the Government of India in their telegram of the 20th

of January (No. 2 on file). The Governor seems to think that we had perhaps some idea that this Nairobi question should be considered by the Hilton Young Commission, since otherwise I do not understand the reference to a possible discussion with Huggins. This, however, was not ever contemplated, and does not meet the situation.

I might add that so far as the Nairobi position is concerned, European opinion has by no means been unanimous in welcoming the recommendations of the Feetham report. Eventually, however, the Nairobi Town Council accepted the principle of the report by five votes to three, but petitions against inclusion in the township were sent in from nearly all the European suburbs which it was proposed to include in the greater Nairobi (Daily Standard of the 10th of November, 1927). So far as I can trace, we have not received any later definite information of the local attitude on the subject.

We have now reached the parting of the ways. The Governor has rejected the idea of postponing action on the Feetham Report. He has also declined to consider the Govt. of India's suggestions for amending the Nairobi proposals, and he has not put forward any practical suggestions of his own for conciliating Indian opinion.

(1) If the recrudescence of Indian agitation is regarded as unimportant, and it is desired that the Hilton Young report should be presented in such political circumstances, and if H.M.G. can properly appear to support this state of things, then Sir E. Grieg should be allowed to go ahead in May with his proposed legislation, but it would be necessary to explain to the India Office and the Govt. of India at

See L. 10035/27
(No. 26) below.

*Heavily expected
The message is
more difficult*

*See P. 10035/27
in original copy
to which we cannot
refer any more
for the present
1928*

the same time that such authorisation was being sent to the Governor.

(2) On the other hand, if steps are to be taken to stop the Indian agitation before it is intensified, and Indian opinion has hardened it will be necessary to make it clear to Sir E. Grigg that he must take immediate steps to disarm Indian opposition. Furthermore, I do not think he should be allowed in those circumstances to represent to European opinion in Kenya that the outward change of policy comes from the Govt. of India. It should be made clear that its true source is Indian opposition in Kenya and the determination of H.M.G. to ensure that their voice is at least heard and considered before a definite decision is made. Suggestions for ^{making} ~~doing~~ this should properly come from the local Government after discussion and consultation with local leaders of all parties in Kenya, but the Governor has not adopted this course. The only concrete suggestion I can make is that he should be instructed to appoint a Committee consisting, say, of representatives of the Nairobi Town Council, of the suburbs affected, of the Indians, and of the European Elected Members of the Legislative Council to consider how an agreed scheme can be arrived at as to the local government of Nairobi. This, at any rate, would be concrete evidence to the Indians that their representations were being taken seriously.

I forbear to make any recommendation between these two courses of policy, as the decision raises wide political issues, besides a personal

personal one with Sir E. Grigg.

R.D.W. [Signature]

After grounds - 8.3.28
(a) that it is the only way of meeting political fears in Kenya, but, under Law and
(b) that a definite decision can be made (at A) by the Council at present place both the decision & the next subsequent

I think that the main objection is political, and that the suggested Committee (was that the Governor has taken themselves off the Legislative Council) is the only way of ^{making} ~~doing~~ this. The situation is difficult, and it is only the last time difficulties which have been discussed by the Governor's commission of enquiry and his report. So far as I am concerned, the position is similar to A gives the Govt a clear opportunity for putting the clock back, and if the proposal comes from him so that of prestige would be involved.

If the Council refuse to take back in a revised form I should not suggest giving further consideration to this

This is important
WJ
m

case.

The reply must be removed,
but the subject, in our view,
should be kept in focus. I would
strongly suggest to Mr. J. that
in view of A. a committee should
be set up to consider the question
of representation.

Wed. 9. 3. 28

Mr. Brockley Jones.

Sec. of State.

No finer thing to do is
to clear up the misunderstanding
which appears to exist between
us and the Government.

I think in the first instance
when we have done this, it should
be suggested to Mr. J. that
any action he may take should
be taken as it were on his
own initiative, and not as

if he were acting under orders
from you! Equally, any suggestion
we make to Mr. J. should be
our own, and we should not quote
the fact of India, as we have been
warned not to do in the past; and
it should be made clear to the
Government that any suggestion
we make is our own, and it is
no business of the Government
to put us up to them! I draw from a
letter that I got from Mr. J.
the afternoon, he is observed with
the idea that the fact of India
went to interfere in Kenya, and
that we do nothing to discourage
them from doing so! If he still
has this feeling, and it may be
partly due to the way we have
handled the matter of Helms, I can

13 In his & Frigg 2d - 17/8/20

14 Gov Frigg Lt Col --- 28th March 20
Has considered carefully suggested course
of action and states as to certain difficulties
which have arisen which preclude its chances
of success. Requests telegraphic reply to course
now proposed.

Draft reply for com^{rs} herewith

W. W. - [unclear]

I have made two alterations in
the draft, which I agree to be made
I do not mean to say that course

A. in the Government is not to be
I am convinced that the Indian people
are sincerely meant, & I regard it as
a magnificent act of the Government
being intended

We must accept the Government's
view that the purely local question
cannot now be discussed by
any local committee, but I
do not believe that the Indian
will accept nomination & it
is essential that we should
have a breathing space for
the next week.

In my view, the Government had

not explode unless they think that
by doing so they are helping the
Government as against the
(?) against the C.O.

W. W. 3.3.20

Sec of State

I think, as things stand now
we must leave to the Government
and the Government will do
as in draft.

W. W.

15 In his [unclear] 17/8/20

16 Gov Frigg Lt Col
has offered Indian nomination to Council on
lines approved. Requests approval to publish
draft of local Committee for public information
& discussion.

I suggest that what we want is
publication & discussion of this question
within the next few days, provided that
the Indian knows that the attitude
of H.M.G. has not been prejudicial.
The draft tel. committee is designed
to attain this result
(going to the reference & the private

personal notes we had better
not send a copy of the notes to
S.O. Mascom I don't think we want
them to have 1A which is referred
to in my draft reply

(When the telegram has gone
we had better write about the coffee etc
on the lines of the Fleming minute
or slip attached)

This is not rather
a book version
I think we had
better leave it alone
all

above 20 10 on
file

R. W. Mascom
26.4.28

is the last sentence of the
draft please see the last sentence of

I agree that we should not
send S.O. the copy of the
must tell them that is for you

26.4.28

Secy of State

Yours

R. W. Mascom

27.4.28

17/1/28 BY THE SECRETARY (Bureau) 27 April 1928

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

DESTROYED UNDER STATUTE Sec. 103

Local Government Bill published in current
issue of Official Gazette your assumption is
correct.

19A Copy of minutes (extract) from unregistered papers

19 - Gov Kenya tel 111 - 9th May 28

(Resolutions from the Kenya Central Indian Assoc. &
the Mombasa Assoc. urging against introduction of the
Bill in view of the Hillen Young Enquiry. Consider that it
should be made clear to the Indians that subject will not be
raised in the H. Y. Commission Report.)

(1) For the history of this matter see
departmental minutes of 21st February '28 and 8th
March '28 in this file (tabbed "A" and "B").

(2) The Governor ^{knows} from another communi-
cation that the Secretary of State has come to the
conclusion that this matter should be brought to ~~the~~
head now.

A suggestion ~~was~~ that the application
of the Festam proposals to Nairobi should be con-
sidered by a special Committee outside the Legisla-
tive Council ~~was~~ made to Sir E. Grigg personally on
the 15th March (No. 13), but it was rejected by him
for reasons set out at length in his telegram of
the 28th March (No. 14). In view of that telegram
the Secretary of State withdrew the suggestion in
favour of the alternative which was proposed by
Sir E. Grigg and which has since proved impracticable
as the Indians refuse nomination to the Legislative
Council; but in withdrawing this suggestion the
Secretary of State said that he was not prepared to
take up "at present" any definite line as to the
course to be adopted in the event of the Indians
refusing to accept nomination to the Legislative
Council (No. 15).

(3) In the circumstances, the only course left if the Indians are to be given yet another opportunity of co-operating, seems to be the setting up of a special Committee on the lines previously contemplated, and the attached draft confidential telegram to the Governor has been prepared for consideration accordingly. It will be seen that if this offer is refused by the Indians, it is proposed that the Government should be free to go ahead with the legislation in the Legislative Council in which case, presumably, there will be an effort on the part of the Indians to put all possible constitutional objections in the way, in addition to a campaign of non-co-operation of municipal and other local bodies (No.19).

It is, however, necessary at this stage to refer to the India Office with which we have had no communication since the receipt of their letter of the 7th February (No.7). Reference to the India Office is complicated by the fact that practically all the intervening correspondence with the Governor has been private and personal, and it may be thought undesirable to send copies of that correspondence to the India Office.

In the circumstances, we should begin by sending to the Private Secretary at the India Office as from the Private Secretary at the Colonial Office, a copy of No.111, reference No.111 and previous correspondence - explain briefly the course of action approved by the Secretary of State in No.15 which has resulted in failure -

and

[of which I O.
have accepted]

12

and then go on to say that while anxious to give the Indians every opportunity for co-operation, the Secretary of State has come to the conclusion that this matter cannot be postponed as suggested by the Government of India in No.2 and as had previously been suggested to the Governor from the Colonial Office (No.4), not only because of the necessity of placing the municipal services of Nairobi on a more satisfactory footing at the earliest possible moment, but also because he feels that the report of the Hilton Young Commission so far from providing a suitable atmosphere for a settlement of this particular question, is itself likely, as matters are now developing in Kenya, to be a subject of considerable controversy, whether or no that report contained any recommendation concerning the Indian franchise in Kenya, and whatever its nature if such a recommendation is made - accordingly the Secretary of State proposes to telegraph to the Governor confidentially as in the enclosed draft, but before doing so he would like to know whether the Secretary of State for India wishes to offer any observations - and add as a final paragraph that the Secretary of State fully realises that the proposal which he is making may be open to objection, more especially from the point of view of the European unofficial element, and he cannot give any undertaking that it will be acceptable to the Governor, but that in all the circumstances it appears to him to be the most satisfactory procedure to suggest

A

The letter to the India Office should be marked "Immediate" and we should ask the earliest possible reply.

Acc. Parkinson
15.5.78

If a telegram on the lines

W. H. Bottanley

The letter to J.O. was on the 19th May.

The P.S. has advised me that the J.O. find it necessary to telegraph to India before they can reply. The telegram was to go last night and J.O. admit that it may be two weeks - or more - before we can get J.O. answer.

This is very unsatisfactory:
(1) The longer the delay in sending word to the P.S. the more difficult the situation for the Kanya Galt, and the Indian will be daily worsened in the belief that they have 'defected' the Galt, while the Europeans are likely to grow restive in the absence of Jalt. & chain

(2) It is desirable in any case to get on with the matter for the reasons stated in the letter to J.O., as well as for the reason not there stated

* It is wonderful to have things settled before the Prince's visit. I entirely agree.

[Handwritten signature]

minutes of 18.5.28

(13) Mr. Grigg is definitely under the impression that the S.P. has agreed to his going ahead with this legislation. (Prolonged) delay will be the result of his going ahead with this legislation. I presume the delay will be the result of his going ahead with this legislation. I presume the delay will be the result of his going ahead with this legislation.

It is proposed whether

I am strongly of opinion that they should be in consultation with the Indian Office. I am strongly of opinion that they should be in consultation with the Indian Office. I am strongly of opinion that they should be in consultation with the Indian Office.

(1) I am strongly of opinion that they should be in consultation with the Indian Office. I am strongly of opinion that they should be in consultation with the Indian Office. I am strongly of opinion that they should be in consultation with the Indian Office.

Go in the same program a week from date of the instructions was the sample?

Go. well, I understand, wish to discuss with L.P. Wilson.

All Pathways 2.11.28

Sec of State.

I am afraid that I must do this with this. I am afraid that I must do this with this. I am afraid that I must do this with this. I am afraid that I must do this with this. I am afraid that I must do this with this.

separately in the Private and Personal telegram which it has always been intended to send when the official telegram goes.

As to (ii) please see the second variation in red ink in the draft official telegram. The original phrasing was open to misinterpretation. Having regard to the fact that the Bill ^(proposed) ~~proposes~~ provisions for the constitution of the Municipal Councils, etc. it will be necessary to admit discussion in the Committee on the kind of issue that the Government of India here refer to.

As to the new form of the official telegram it is not yet agreed and it should be considered at the other end.

It is proposed to put most conveniently the variations into the Private and Personal telegram.

It is also possible now, I think, that the British should be told that the Secretary of State has been in consultation with the Indian authorities, and having regard to their attitude, which is distinctly helpful, Sir S. Grigg cannot be blamed if he has not let his own views be known. It is impossible to say that the Government of India will advise the Emperor in East Africa to accept the proposal, but it is not yet clear what he will do. It is now that the Government of India will be asked to do this.

In addition to the revised draft official telegram, I am sending a draft Private and Personal telegram for separate action.

In addition to the revised draft official telegram, I am sending a draft Private and Personal telegram for separate action.

6. If these two telegrams are accepted by the Secretary of State and sent, the following action would seem to be necessary:

- (a) an official letter to the India Office sending, for information, a copy of Sir E. Grigg's telegram of the 9th May, and of the official reply;
- (b) a letter from the Private Secretary expressing appreciation of the expedition with which the India Office have dealt with the matter, and enclosing a copy of the Private and Personal telegram from which the India Office will see how we have dealt with (a) and (b) in the Viceroy's telegram, and explaining that in the circumstances no special instruction seems to be needed to regard (a), but pointing out that the wording of the official telegram has been altered so as to avoid misconception.

See discussion 31.5.28
I agree. The meeting with the Duke & Duchess is the original deal, unless, as I like, they will give the help. We must leave the Gov. to judge whether the meeting should be held before the proposal is offered, a special Committee is announced, or immediately after the announcement.
L.C.S. 31.5.28.

Before they have committed themselves.

Sec of State
I am not very happy about

this matter, as the course proposed
 will please no one. I don't
 think, however, that there is any
 other alternative than to telegraph
 as proposed.

R.H.G.
 16.6.28

25 Despatch (quint) 5 June 1928

26 Tel to Sir E. Grigg 5 June 1928

DESTROYED UNDER STATUTE 17, 20 & 21 (1909)

27 Govt. minute 18 June 28
 Text of statement made by Governor in
 legislative council in regard to local Govt.
 Bill.

28 Despatch to Govt. 18 June 28
 states attitude of European elected members
 and suggests some statement be made as to the
 content of Bill & use shown. Bill has been sent
 officially to Government of India

10290 30. 1 do brief

1/2 for review -

At. Sqd. com. with
 view of ref. to the
 spirit of accommodation

each of 4 must, 2/10/28, 15
 be general & not confined
 (as No 30 suggests) to
 one side only.

All Parliament

14.6.28

This is very good news, & the
 Governor thoroughly deserves a
 compliment.

16.6.28

Sec of State

16.6.28

R.H.G.
 16.6.28

31 Tel to Grigg 18 June 1928

32 Tel to Sir E. Grigg 18 June 1928

33 To Munkleath (Scot) w/copy 30 & 32

DESTROYED UNDER STATUTE w/copy 29 & 31 (18 June 28)

10290 35

Govt. Grigg. 266. (copy) ----- and May 1928
 The copy resolutions passed by Kenya Central India
 Association relative to the Local Government
 Commission.
 (Original despatch registered on 11/20 Kenya)
 Land Bank Bill.

Mr. Parkington
to copy for action
to Mr. Parkington

- 36 Sir E. Grigg Tel Pte & Personal. 22nd June 1928
States as to agreement reached by Committee on
Local Government Bill. Official Tel follows.
- 37 Gov. Grigg Tel. 165. 22nd June 1928
States as to composition of Committee appointed
and as to agreement reached on question
of Local Government Bill.

~~REGISTERED UNDER STATUTE~~ 166 - 25 June 1928
Number Year of No. 37.
No. 36 x No. 37.

It is a matter of real satisfaction
that the Europeans and Indians
should thus have been
brought together & that
they should have arrived at
agreement. It is a matter
of real satisfaction
in the eyes of his Majesty
the King that the result
has been achieved.

With the four parties
thus agreed & the Government
fully accepting their
proposals, we can
safely predict that
the Indian Bill will be
passed without a hitch
and that it will be
the first of its kind not to
be regarded as a failure. But
we must refer to the
India Office & definitely
carry them (either East
or India) with us - it

in E. Grigg, I think, unless
now appreciable this 19

Submit 3 copies in the
All-Party Committee
25.6.28
Entirely satisfactory. It remains to
see whether India will accept the
Committee's agreement or will want
to limit & see what the responsibilities
of King & India will be - and it

G. C. C.
25.6.28

GA
25.6.28

39 Sir E. Grigg Tel. (26 and 28) 25 June 1928
40 Sir E. Grigg Tel. (26 and 28) 25 June 1928
41 Sir E. Grigg Tel. (26 and 28) 25 June 1928
211 of 1928

~~REGISTERED UNDER STATUTE~~ India Office 25.6.28
Very satisfactory.
There is a private tel. from
me from Sir E. Grigg. For which
we have not yet thanked him

place it on the file. But
it does not affect the
v. urgent action required now
on this paper - submit
2. 27. 18. in case
[When we send copies of this
to S.O. we can through them
for their expedition.]

Acc Parkman
3.7.18
W.S.
27.18

Sent off telegram 9 let
Sec of State see later
8/4/18
at once

3.7.18.

To Gen Sec 13/7/18
in reply to

For file no. 172
Request repetition of part of Sec. of
3/18/18
4 July 28
4 July 28
(Repetition)

It was very important that in a
important part of this matter
there should have been a mistake
which rendered the rest of act
unnecessary. However that

No official letter yet in form to.
but think we can write officially
to S.O. at once as there
ought to have come from
file.

Acc Parkman
5.7.18
And they send on
promptly for the S.O. Gen.
W.S.
57 18
at once

47/20 (S.O. 4/18/18)
JOK

48 India Office 6 July 28.
Trans. copy of telegraphic corres. with Govt. of
India relative to the Local Post Bill, & expresses
concurrence with the action Mr. Amery proposes
to take. We are glad to be able to mention Govt. of India
as early as possible on points mentioned in para. 5
of their ltr.

In view of No 27 -
partly
Acc P
7.7.18
at once

JOK

India Office
Lodge No. 47

Mrs King

? part by Mr. King

12.7.28

Mr King
13.7.28
at home

Mr. Larkinson

Gov has not replied to No. 44

Remind. pl. Mr. King
13.7.28

I do not think we need
revisit yet
Mr. P. Singh is on leave
14.7.28

visit 3 weeks

all P
13.7.28
at home

DESTROYED UNDER STATUTE

Copy to Gov. Secy. let me see. 14 July 1928
Your telegram 4 July 1928, hope to telegraph
towards the end of the month

No need to say anything
B.S.O. I think, until
we get the info. denied.

Partly all P
12.7.28
at home

K.K.

Col. Wedgwood No. 2 on 17th July

Copy 51 to Gov.

12/30 April

52. Governor's telegram, No. 199. 4 August 1928.
Replies to point raised by Govt of India
that it is an administrative matter entirely
unconnected with ^{social} representation which is
necessary because of considerations indicated.

The first part of the telegram
is not very clear; but
the upshot is quite clear
I think the Govt of India
will be satisfied

< These are the
in the fact
with the
understand
social' sense
the right
the matter
We find good
all P

all P
13.7.28
at home

To India Office 2 August 1928
(with copy to ...)

See Govt. 10.8.28.

51

Parliamentary Question by
Col. Wedgwood ————— No. 2 on P. Q. No. 21

Copy 51 to Gov.

14/30/48

52. Governor, telegram No. 149. 4 August 1948.
Replies us to point raised by Govt of India
that it is an administrative matter entirely
& connected with ^{racial} ~~national~~ representation which is
necessary because of considerations indicated.

The first part of the telegram
is not very clear; but
the upshot is quite clear
& I think the Govt. of India
will be satisfied.

< These sentences have
with the first
with the first
undoubtedly
racial matter
the right consideration
with results
of the first part
1948

S. P. W.
A. W.

52 To India Office 6 August 1948
with copy No. 52.

See Wed. 10.8.48.

51

Parliamentary Question by
Col. Wedgwood

21
no. 2 on P.Q. file

Copy 51 to Gen.

12/30/48

52. Governor, telegram No. 497 22 August 1948
Replies as to point raised by Govt of India
that it is an administrative matter entirely
& connected with ~~railway~~ ^{racial} representation of
members because of considerations indicated

The first part of the telegram
is not very clear; but
the request is quite clear
& I think the Govt. of India
should be satisfied

These since been
with the Govt
with the Govt
undoubtedly
social' must be
the right amendment
with, no other
no further good

57-11-48

ALP

07/1/48

ALP

53.

To India Office 2 August 1948
(under copy no. 52)

28

1784

See Wed. 10.9.48.

Mr.
Mr.
Mr.
Mr. Bottomley.
Mr. E. J. Harding.
③ J. Shackburgh.
Sir G. Grenelle
Sir C. Duce.
Sir S. Wilson
Mr. G. Hambro
Lord Lant.
Mr. Amery.

Handwritten signature

15033/28 Kenya

53

Confidential

C.O.
6 Aug 1948

DRAFT.

U.S.G.S.

Economic & Development Dept

India Office

From *[illegible]* to *[illegible]* Tel No. 144-418/48
No 52

Letter ref. to 7 -
letter E. + O. 4368/28
of the 6 July + the
letter from the Dept.
No. 15033/28 of the
5 July on the subject
of the Kenya Local
Govt. Bill, have etc
to request you to visit
the I.P. to India Dept

he has now received from the
Gov. of Bombay a reply to
the conf. rel. which was sent
to the Gov. on the 3rd July =
requesting info. on the
three points specified in
the rel from the Viceroy
of India of the 2nd July.

(in No. 48)

~~of~~ a copy of the
Governor's rel. is enclosed.

(2) I am to explain that
the rel. of the 4th July to which
refⁿ is made was one
sent in order to correct a
mistake in
part of the text of the
rel. of the 3rd July.

(No. 48)

(Signed) acc. Pankaj...

he has now received from the
Gov. of Bombay a reply to
the conf. rel. which was sent
to the Gov. on the 3rd July =
requesting info. on the
three points specified in
the rel. from the Viceroy
of India of the 2nd July.

(in No. 48)

A copy of the
Govt. rel. is enclosed.

(2) ~~From~~ From the explanation about
the rel. of the 4th July to which
ref. is made was one
sent in order to correct a
mistake in
part of the text of the
rel. of the 3rd July.

(No. 46)

2 (Signed) acc. Parkin on

52
3

TELEGRAM from the Governor of Kenya to the Secretary of State for the Colonies.

Dated 4th August.

(Received, Colonial Office, 1.42 p.m.; 4th August, 1928).

No. 199. 4th August. Your telegram 3rd July your telegram 4th July
 Local Government Bill. As regards the point raised by the Government of
 India I am sure that the Government of India will appreciate that this
 is an administrative matter entirely unconnected with ^{estimated} ^{national} ~~national~~
 representation which is necessary because of the ~~three~~ ^{three} considerations
 viz. 1. the importance of the Government financial commitments
 to the Municipalities of Nairobi and Mombasa ^{2.} ~~2.~~ necessity to
 provide special safeguards for native interests 3. the relationship
 between the Municipalities and the Railway. I. This Government
 is not prepared at this stage to commit itself as to how many
 representatives within the margin agreed to at Conference it will
 nominate to protect these interests but the Government will not
 nominate more members than it is satisfied from time to time are
 necessary for this purpose. II. As regards majority for passing
 Municipal estimates agreement was that this question should be
 discussed in Select Committee no statement on the matter can therefore
 be made at present. III. As regards the method of choosing Unofficial
 Members the Government is prepared to allow each Community choice between
 nomination and election and on information received is providing for
 European election in Nairobi but nomination for both communities in
 Mombasa.

Private Streets Ordinance of 1924 gives a Municipal authority
 various powers as regards control of construction of streets which are
 not vested in them or repairable by them also as regards constructing
 and maintaining such streets if necessary and recovering costs from
 landowners affected and at request of frontage owners to take over such
 streets as public streets when they have been constructed to the satis-
 faction of the Municipal authority.

123
3

TELEGRAM from the Governor of Kenya to the Secretary of State for the Colonies.

Dated 4th August.

(Received, Colonial Office, 1.42 p.m., 4th August, 1928).

No. 100. 4th August. Your telegram 3rd July your telegram 4th July
 Local Government Bill. As regards the point raised by the Government of
 India I am sure that the Government of India will appreciate that this
 is an administrative matter entirely unconnected with ^{ected} ~~racial~~ ^{national}
 representation which is necessary because of the three considerations
 viz. 1. the importance of the Government financial commitments
 to the Municipalities of Nairobi and Mombasa ^{B.} ~~to~~ the necessity to
 provide special safeguards for native interests B. the relationship
 between the Municipalities and the Railway. I. This Government
 is not prepared at this stage to commit itself as to how many
 representatives within the margin agreed to at Conference it will
 nominate to protect these interests but the Government will not
 nominate more members than it is satisfied from time to time are
 necessary for this purpose. II. As regards majority for passing
 Municipal estimates agreement was that this question should be
 discussed in Select Committee no statement on the matter can therefore
 be made at present. III. As regards the method of choosing Unofficial
 Members the Government is prepared to allow each Community choice between
 nomination and election and on information received is providing for
 European election in Nairobi but nomination for both communities in
 Mombasa.

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 various powers as regards control of construction of streets which are
 not vested in them or repairable by them also as regards constructing
 and maintaining such streets if necessary and recovering costs from
 landowners affected and at request of frontage owners to take over such
 streets as public streets when they have been constructed to the satisfac-
 tion of the Municipal authority.

Any further communication should be addressed to the
Economic and Finance Department,
Overseas.
E. S. O. 4368/28
Victoria Street, E. 1. London.
Telegrams: Overseas Finance, London.



INDIA OFFICE,
WHITEHALL,

LONDON, S.W. 1

5th July, 1928.

Impolite

RECEIVED
5 JUL 1928
INDIA OFFICE

Sir,

(No. 411)

With reference to your letter of 28th June, No. 18063/28, relative to the Kenya Local Government Bill, I am directed by the Secretary of State for India to transmit to you a copy of a telegraphic correspondence with the

To Government of Kenya
From Government of India

And 6 Aug 28

Government of Kenya, Nairobi, Kenya, in a letter of the 28th June, 1928, in which you inform me that the Government of Kenya have received a copy of the Kenya Local Government Bill, 1928, and that they are desirous of obtaining a copy of the Bill for their own use. I have the pleasure to inform you that a copy of the Bill has been forwarded to you by the Secretary of State for India, and that you may wish to refer to it in your own correspondence with the Government of Kenya. I am, Sir, very respectfully,
Yours faithfully,
The Secretary of State for India

The Under Secretary of State, India Office

CCLO IND OFFICE.

3. With reference to paragraph 2 of your letter I am to say that His Lordship concurs in the action which Mr. Amery proposes to take. He would be glad to be able to inform the Governor of India as early as possible and to discuss the matter with paragraph 3 of their telegram.

I am, Sir,

Your obedient Servant,

Lawrence

E.A. O.4220/28.

MEMORANDUM

from Secretary of State to
Viceroy, dated 29th June, 1928.

X

1796.

Education Department. Peetham Commission Report.
I recently decided that Kenya Local Government bill of which Governor is sending you copy might be proceeded with but it was arranged that it should be considered by a Committee outside the Legislative Council in order that representatives of Indian community might take part in its consideration

Following telegram received from Governor 22nd June begins *It is essential that if my telegram immediately following telegram is G.T.C.*

Code

1797

Your telegram of 18th June Local Government Bill. I appointed the following Committee which sat this week under the chairmanship of Martin. Europeans Conway Harvey, Francis Scott, Litchell for Nairobi and Atkinson for Mombasa. Indians Bhadda and Malik for Nairobi Pandya and Abdul Hussain Bhaderohy for Mombasa. The Indians were selected by Central Indian Association and the Europeans by selected members. The terms of reference were as follows

(1) To discuss such clauses of the Local Government Bill as involve a difference of opinion between the European and Indian communities and to endeavour to arrive at an agreement

(2) Where it is found that agreement cannot be arrived at to record definite grounds on each side for disagreement

(3) Provided however that Committee shall not be at liberty to discuss subject of municipal representation otherwise than in accordance with terms of Clause 5 paragraph 4 of Command Paper of 23rd July 1923".

The Committee agree to following recommendations

(1) Acceptance of enlarged Nairobi municipal area subject to the proviso that for the purpose of internal development of the suburbs provisions of the private Streets ordinance should be applied and that inception of new suburban construction scheme forming a party of a town planning scheme should be accompanied by enforcement where possible of levy upon property increased in value provided for in the town planning ordinance

(2) The inclusion in the Bill in respect of both Mombasa and Nairobi of provision for municipal estimates to be passed only by some stated majority to be discussed by select committee of the Legislative Council in due course. No further safeguards for minority were considered necessary beyond those already contained in the Bill.

(3) The main recommendations are in respect of proportion of racial representation only and Committee agreed that the following proportion in Nairobi and Mombasa would be fair and reasonable and each side pledged themselves to urge acceptance to their several communities (a) Nairobi: Europeans 7 Indians 1 or 2 Government representatives in addition to the Resident Commissioner for Nairobi and an establishment of a Nairobi district Council as recommended in Peetham Report addition a member from such Council to be considered on its merits. The Indians expressed a preference for two rather than three Government representatives but leave the matter to the Government. This objection is due to direct Railway representation as recommended by the Commission. I consider 3 Government representatives essential. (b) Mombasa: Resident Commissioner as Chairman 7 Europeans 7 Indians up to 3 Government representatives appointed irrespective of

The Committee agree to following recommendations

(1) Acceptance of enlarged Nairobi municipal area subject to the proviso that for the purpose of internal development of the suburbs provisions of the private Streets ordinance should be applied and that inception of new suburban construction scheme forming a part of a town planning scheme should be accompanied by enforcement where possible of levy upon property increased in value provided for in the town planning ordinance

(2) The inclusion in the Bill in respect of both Mombassa and Nairobi of provision for municipal estimates to be passed only by some stated majority to be discussed by members of the Legislative Council in the course of the session. No further safeguards for minority were considered necessary beyond those already contained in the Bill.

(3) Remaining recommendations are in respect of proportion of racial representation only and Committee agreed that the following proportion in Nairobi and Mombassa would be fair and reasonable and each side pledged themselves to urge acceptance to their several communities (a) Nairobi - Europeans 7 Indians 2 Government representatives in addition to the Resident Commissioner for Nairobi and an establishment of a Nairobi District Council as recommended in Keetham Report addition of a member from such Council to be considered on its merits. The Indians expressed a preference for two rather than three Government representatives but leave the matter to the Government. This objection is due to direct Railway representation as recommended by the Commission. I consider Government representatives essential. (b) Mombassa - Resident Commissioner as Chairman - Europeans 7 Indians up to Government representatives appointed irrespective of

28
race and not necessarily to be officials. Here again the Indians would prefer smaller number of Government representatives but leave the matter to the Government.

Both Communities prefer nomination only of members in Mombassa and in Nairobi the Indians prefer nomination and the Europeans election as provided in the Bill. Railway representation in these recommendations is absorbed in Government representation on the ground that Railway land remains Crown land. I believe this agreement to be thoroughly satisfactory and the Committee to be sufficiently representative and in touch with the two communities to justify the immediate introduction of the Bill its recommendations to be put forward in the form of Government amendments. The Committee report is unanimous and duly signed and I should be glad of telegraphic permission to introduce the Bill August Session of Mombassa Enis.

X This agreement appears satisfactory from Indian point of view. I understand that the Governor anticipates that there may be further trouble with European subjects on the one hand and two Indian agitators Oza and Pass on the other but that the latter will not carry sufficient influence to worry the Madke and Parlye of the Government of India and so is satisfied.

I would like to know urgently whether you are ready to sign the Bill. I would like to be able to inform Briggs before 15th July when he leaves for the Northern Frontier. He will be out of reach of the telegraph for some time. I will sign the Bill as it stands, the agreement till before a meeting of the Executive Council but Kenya Government may announce that the Committee have reached a final agreement and that amendments to the Bill are now being drafted to be introduced.

RC/WAC

(117 groups.)

436

2876

COPY OF TELEGRAM

From Viceroy, Department of Education, Health and Lands, to Secretary of State for India,

Dated 2nd July, 1928, Simla.

Received 2nd July, 1928, 7 p.m.

(COPIES
CIRCULATED)

IMMEDIATE.

X

1276-S.

Education Department. Your telegram No. 1796 of June 29th Peabham Report. Copy of Kenya Local Government Bill has not yet reached us and we have no copy of private orders Ordinances referred to in the summary of the agreement reached by the Committee on the Bill. We are unable therefore to comment on first safeguard for minorities recommended by the Committee or other safeguards that may have been included in the original Bill. On the question of unofficial representation on the councils of Nairobi and Mombasa, however, Committee have reached conclusions which appear eminently satisfactory and we are ready to endorse them. As regards Government representatives, we trust larger representation which Governor considers essential will be enforced/^X ~~experiment~~ *Only (4?)* (experience) of smaller representation favoured by Indian members of Committee proved unsatisfactory. This should help to abort or render ineffectual the threatened agitation by Oca and Dasa.

Kenya Government and members of Committee on the Bill, both European and Indian, have displayed admirable spirit of accommodation in adjustment of

contentious

X

No punctuation telegraphed here.

contentious questions, and we should like our congratulations on the fact to be communicated confidentially to Sir Edward Grigg and to the members of the Committee.

3. We should like to be informed as early as possible of action contemplated regarding the points which the Committee have left for the decision of the Kenya Government or Legislative viz., (1) strength of Government representation, (2) majority to be fixed for passing municipal estimates, and, (3) method of choosing unofficial members in Nairobi and Mombasa.

Mr. *Wool* 4.7.28

X⁴ 15033728 *Wool* 31

Mr.

X Mr. Bottomley. 5.7.28

Mr. E. J. Harding.

Mr. Shuckburgh.

Mr. G. Grimble.

Sir C. Davis.

Sir S. Wilson

Mr. Ormsby-Gore

Lord Lovat.

Mr. Amery. *Amery*

Act, No. 49

~~Handwritten scribble~~

Confidential

DRAFT.

From U.S. of S.
(Economic Overseas, copy)
1.0.

[41]

20/9/28. Amery 15.7.28
W.S. G.S.

From Amery - Lord Lovat
17/7/28

CO
5 July 1928

hi
with ref. to the "Act"
has been put off the
20 June on the subject
of the Kenya Local
Govt. Bill, from which
to be to you, for the
info. of the Dept. in
India, the enclosed
copies of two letters,

one of which is provided
with a confidential, sent
to the Governor of Kenya on the
3rd July.

(2) ~~It~~ in view of the urgency
of the matter, action was taken
on receipt of advanced copies
of the telegrams exchanged
between the Dept. for India &
the Ministry of Home Affairs (No. 1796 of
the 29th June & No. 1275-S of the
2nd July) which were forward-
ed to the Ministry on the 3rd July to
their Dept.

It was understood
that the Dept. for India concerned at
the time was proposed in the
letter from the Dept. of the 26th June, and

(3) To express his anxiety to take
the steps taken to enable him to comply
with the Government's request for definite visits to be
sent before the 5 July. (Signed) ... WILKINSON.

one of which is provided below
with a confidential, sent
to the Governor of Kenya on the
3rd July.

(2) ~~There~~ in view of the urgency
of the matter, action was taken
on receipt of advanced copies
of the telegrams exchanged
between the Dept. of India &
the Viceroys of India (No 1796 of
the 29th June & No 1276-S of the
2nd July) which were forwarded
semin-officially on the 30th July to
the Dept.

It was understood
that the Dept. of India concurred in
the action proposed in the
letter from the Dept. of the 26th June, and

(3) I am to express his Majesty's thanks
for the steps taken to enable him to comply
with the Government's request for definite information to be
sent before the 5 July. (Signed) ... INSON.

X. 15033124 Kerala
EC

Mr. A. P. S. 7.28

Mr.

Mr.

X Mr. Bottomley 3.7

Mr. E. J. Harding

Sir J. Shuckburgh

Sir G. Ormrod

Sir C. Davie

+ Sir S. Wilson

Mr. Ombly Gars 3.7.28

Lord Epsom

Mr. Amery

at mee
2 DVs
conson

~~At See~~

based on
5.15/3/7
Vr

to go today 3.7.28

3rd July

DRAFT.

Impersonal
Government
Minister

Confidential - See my
public telegram of
today - local Government
Bill - Government
of India have telegraphed
as follows begins

to P. G. ...
copy

[Here telegraph in full
& ultimately copy in full]
A - B of first
encl. to No 42 Jend

I am very glad
to communicate to
you this appreciative
message & desire

X. 15035124 Geneva
EC

Mr. ~~Adel~~ 3.7.28
Mr.

Mr.

X Mr. Bottomley. 3.7

Mr. E. J. Harding.

Sir J. Shuckburgh.

Sir G. Ormrod.

Sir G. Davies.

+ Sir S. Wilson. ~~at once~~

Mr. Gumbel-Care 3.7.28

Lord Epsom.

Mr. Anson.

2 DVs
conson

To go today 3.7.28

3rd July

DRAFT.

Important

Governor
Nairobi

Confidential ○ See my
public telegram of
today. Local Government
hall ○ Government
of India have telegraphed
as follows: begins

90. 15035124 Geneva
EC

[Here telegraph in full
ultimately copy in full]
A - B of first
encl. to No. 42 Jend
○ I am very glad
to communicate to
you this appreciative
message & desire

To associate myself wholeheartedly
with the congratulations of
yourself & all the members
of the Committee. Please
advise me as soon as possible
on the points specified in
last paragraph of G. B. S.
India's telegram & in connexion
with first of those points
you will no doubt give
very careful consideration to
views expressed by G. B.
of India in first paragraph
of telegram

Yours

to associate myself wholeheartedly
with the congratulations of
yourself & all the members
of the Committee. Please
advise me as soon as possible
on the points specified in
last paragraph of Galt's
letter's telegram & in connection
with first of those points
you will no doubt give
very careful consideration to
views expressed by Galt
of letter in first paragraph
of telegram.

Yours

X. 150331 at Kenya.

Mr. Allsop 3.7.28

Mr.

Mr.

Mr. Bottomley 3.7

Mr. E. J. Harding.

Mr. J. O'Rourke.

Mr. G. Ormiston.

Mr. G. Davis.

Sir S. Wilson.

Mr. Omsby-Gore.

Lord Lovat.

Mr. Anson.

2/11/28

Handwritten initials and scribbles.

Handwritten notes: "Lester 1 am 4.20 for 3/7" and "Lm".

Prigo today 3.7.28

3rd July.

DRAFT

Impersonal

Governor
Nairobi

[37]

It is with much pleasure that I received your telegram No. 165 of the 2nd June reporting the agreement arrived at in regard to the Local Government Bill by the special Committee which was set up under Chairmanship of Commissioner ~~for~~ for Local Government Lands

Vertical handwritten note: "copy to J.C. 10.10.28"

Reciev. quickly for comm. to S.O.

X. 150331 28 Kenya

Mr. ~~Allen~~ 4-7-28
Mr.
Mr.

2 e
Se
books 1 and
at 20 for 3/7
you

Mr. Bottomley. 3-7

Mr. E. I. Harding.

Sir J. Blackburg.

Sir G. Grindley.

Sir G. Davis.

Sir S. Wilson.

Mr. Oswald Gore.

Lord Lovat.

Mr. Amery.

J.H.K. at once
3.7.28.
2 1/2 comm

Trigo today 3.7.28

3rd July.

It is with much pleasure
that I received your
telegram 160 165
of the 22nd June
reporting the
agreement arrived at
in regard to the
Local Government
Bill by the special
Committee which
was set up under
Chairmanship of
Commissioner ~~of~~
for Local Govern-
ment Lands

DRAFT.

Important

Governor
Nairobi

[No 37]

Reciev. quickly
for comm to I.O.

and Settlements.

I fully share your view
as to satisfactory nature of the
agreement reached and

I approve of bill being
introduced at August
session of Legislative Council
with necessary amendments
to give effect to recommendations
of the Committee.

Seen

and settlement of
 It fully shows your view
 as to satisfactory nature of the
 agreement reached and
 I approve of bill being
 introduced at August
 session of Legislative Council
 with necessary amendments
 having effect to recommendations
 of the Committee
 See

Mr. *Chap.*
 Mr.
 Mr.
 X Mr. Bottomley 256-28
 Mr. E. J. Harding
 Mr. J. Shackburgh
 Sir G. Grindle
 Sir O. Davis
 + Sir S. Wilson
 Mr. Ormsby-Gore 115-6-28
 Lord Lovat
 Mr. Amery

Amend No. 48.

IMPORTANT

Downing Street,
 26 June, 1928.

Sir,
 With ref. to the letter from
 dated 15.3.28 of 18th June,
 it to you, to be laid
 for India. The
 further copy of further copy received
 from the Govern of Kenya in which he
 result of the discussion of
 the Special
 the on in ship
 H. H.
 Se Mount. Copies
 the Township
 the
 Mr. Amery's gratification at the
 successful outcome of the discussion,
 which led to the submission of
 agreed proposals. It will be seen that
 the

DRAFT.

FR. 10107 Kenya - Pt. No. 107-22.6.28
 (10.10)
 X Ordinance No. IX of 1926
 X Chap. 95 Kenya Revenue
 X Ordinance No. XI of 1926
 X Ordinance No. XII of 1926
 X Capital Account

*ref. made
 in the Govt
 tel. on
 considered.*

41
 37

Govt. asks for authority to introduce
at the August session of the
Executive Council with the necessary
amendments to give effect to the recommenda-
tions of the Committee. Mr. Amery is
asked to instruct the Govt. accordingly.
Before doing so, he would be glad to
know that the Govt. of India is willing
to endorse the agreement arrived at and that
the Govt. of India concurs in the action
proposed to take.

Although the Bill would not be
introduced until August, the Govt. has asked
that he may be advised of the decision taken
before the 5th July, when he himself will be leaving
London for several weeks, and I am to ask
that the matter may be treated as
urgent and a reply sent to this effect at
the earliest possible date.

(Signed) W. G. BOTTOMLEY.

25.6.28

- Mr. Bottomley
- Mr. E. J. Harcourt
- Sir J. Shackleton
- Sir G. Grigg
- Sir G. Davis
- Sir S. Wilson
- Mr. Ormsby-Gore
- Lord Leval
- Mr. Amery

DRAFT

D. T. MONTEATH, ESQ., O.B.E.

India Office

Fr. Sir E. Grigg Private tel.
22.6.28
No. 56 (to be copied)
To do Private tel. 25.6.28
dft. herewith

3 dfts.
cons.

X.15023/28 Kenya.

Fr. Sir E. Grigg

SECRET

Downing Street,
26 June, 1928.

Dear Montearth,

In continuation of my secret
letter of the 18th June, I enclose copies
of a further private and personal telegram
from Sir Edward Grigg and Mr. Amery's
reply about the Kenya Local Government
Bill. An official letter is being sent
to the India Office forwarding a copy
of the Governor's official telegram, but
Mr. Amery would like Lord Birkenhead to
see also these private telegrams.

As will be seen from the official
letter, Mr. Amery is quite prepared to
approve this agreed scheme, and he
earnestly hopes that, as urged in
Sir E. Grigg's private telegram, the
Government of India will be willing
to endorse the agreement.

39
50

As Sir B. Grigg will be leaving Nairobi
on 5th July for the Northern Frontier
District, there is not much time for a reply
to reach him before he starts, which is
what he wants. Mr. Amery would be grateful
if you could kindly manage to get off
before 11 A.M. reply to the official letter
to be sent to the Colonial Office in the
middle of this week.

copy Stephen L. ...

Mr. Parkinson 25.6.28
Mr.
Mr.
Mr. Bottonby 15.6.28
Mr. B. J. Harding
Mr. J. Shuckburgh
Sir G. Grindle
Sir C. Davis
Mr. E. ...
Mr. Ormsby-Gore 15.6.28
Lord Lovat 3 dfts.
Mr. Amery. COBSON.

*Code & sent
5.45 pm
25.6.28
JHW*

25th June, 1928

Private and Personal.

DRAFT Tel. (Code)

(No. 36)

GRIGG
~~GOVT. HOUSE~~
NAIROBI.

Your telegram of 22nd June
Local Govt. Bill. I will reply as
soon as possible to the official
telegram which you have sent me but
in the meantime I want to let you
know how glad I am that the
matter has progressed so well and
that the European and Indian
representatives on the Committee
have been able to reach agreement.
I realise that Martin must have had
a very difficult task and he is to
be congratulated on his skilful
handling of the Committee.

copy to ... 20 JUN 1928

SECRET.

51
TELEGRAM from the Governor of Kenya to the Secretary of State for the Colonies.

Dated 22nd June Received Colonial Office 6.10.p.m. 22nd June, 1923

22nd June. No. 165.

No 32
Your telegram of 18th June, Local Government Bill. I appointed the following Committee which sat this week under the chairmanship of Martin. Europeans Conway Harvey, Francis Scott, Mitchell for Nairobi and Atkinson for Mombasa. Indians Phadke and Malik for Nairobi Pandya and Abdul Hussein Khaderbhoy for Mombasa. The Indians were selected by Central Indian Association and the Europeans by selected members. The terms of reference were as follows - (1) To discuss such clauses of the Local Government Bill as involve a difference of opinion between the European and Indian communities and to endeavour to arrive at an agreement. (2) Where it is found that agreement cannot be arrived at to record definite grounds on each side for disagreement (3) Provided however that Committee shall not be at liberty to discuss subject of municipal representation otherwise than in accordance with terms of Clause 6 Paragraph 4 of Command Paper of 23rd July 1923."

The Committee agreed to following recommendations (1) Acceptance of enlarged Nairobi municipal area subject to the proviso that for the purpose of internal development of the suburbs provisions of the private streets ordinance should be applied and that inception of new suburban construction scheme forming a part of a town planning scheme should be accompanied by enforcement where possible of levy upon property increased in value provided for in the town planning ordinance. (2) The inclusion in the Bill in respect of both Mombasa and Nairobi of provision for municipal estimates to be passed only by some stated majority such majority to be discussed by Select Committee of the Legislative Council in due course. (3) No further safeguards for minority were considered necessary beyond those already contained in the

the Bill. (4) Remaining recommendations are in respect of proportion of racial representation only and Committee agreed that the following proportion in Nairobi and Mombasa would be fair and reasonable and each side pledged themselves to urge acceptance to their several communities. (a) Nairobi 9 Europeans 7 Indians 1 or 2 Government representatives in addition to the Resident Commissioner for Nairobi and on establishment of a Nairobi District Council as recommended in Feetham Report addition of a member from such Council to be considered on its merits. The Indians expressed a preference for two rather than three Government representatives but leave the matter to the Government. This objection is due to direct Railway representation as recommended by the Commission. I consider 3 Government representatives essential. (b) Mombasa. Resident Commissioner as Chairman 7 Europeans 7 Indians up to 4 Government representatives appointed irrespective of race and not necessarily to be officials. Here again the Indians would prefer smaller number of Government representatives but leave the matter to the Government.

Both Communities prefer nomination only of members in Mombasa and in Nairobi the Indians prefer nomination and the Europeans election as provided in the Bill. Railway representation in these recommendations is absorbed in Government representation on the ground that Railway land remains Crown land. I believe this agreement to be thoroughly satisfactory and the Committee to be sufficiently representative and in touch with the two communities to justify the immediate introduction of the Bill its recommendations to be put forward in the form of Government amendments. The Committee report is unanimous and fully signed and I should be glad of telegraphic permission to introduce the Bill August session in Mombasa.

...the Bill. (4) Remaining recommendations are in respect of proportion of racial representation only and Committee agreed that the following proportion in Nairobi and Mombasa would be fair and reasonable and each side pledged themselves to urge acceptance to their several communities. (a) Nairobi 9 Europeans 7 Indians 1 or 2 Government representatives in addition to the Resident Commissioner for Nairobi and on establishment of a Nairobi District Council as recommended in Feetham Report addition of a member from such Council to be considered on its merits. The Indians expressed a preference for two rather than three Government representatives but leave the matter to the Government. This objection is due to direct Railway representation as recommended by the Commission. I consider 3 Government representatives essential. (b) Mombasa. Resident Commissioner as Chairman 7 Europeans 7 Indians up to 4 Government representatives appointed irrespective of race and not necessarily to be officials. Here again the Indians would prefer smaller number of Government representatives but leave the matter to the Government.

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ORIGINAL "Decode" of a telegram from the Govt Kenya 34

Date: 22 June 1928. Received in the Colonial Office at 2.25 pm on 22 June

Decoded by MAW

22nd June. Private and Personal Agreement reached by Committee on Local Government Bill is being communicated to you officially today. Bill sides-began by taking up a reasonable attitude but eventually came together on this compromise which was put forward by the Government. Success was largely due to Martin's tact and patience in the chair which both acknowledged gratefully. It is considered very fair and practical. I hope you will approve and that the Govt. of India will advise the Indian community here to accept it. Following points are especially satisfactory: 1. Balance of representation agreed upon for Nairobi gives the Indians equal number with Europeans in the present Municipal area & this is more than they possess under the existing Municipal system. 2. Further principle that each suburban area included in the new municipal boundary should have one representative each. 3. 3 additional European and 1 Indian

w3) must tel 25 June 1928 at 10.00 am
 copy to S. S. de A. S.

numbers. Indians ^{that} agreed inclusion of suburbs
the municipal system is desirable and that
principle of representation is fair. PHADKE
did not have withdrawn objection stated in
a recent report. 2. Official representation
increased both in Nairobi and in Mombasa.
Officials will hold the balance in both places.
3. It was agreed that the method of selecting
representatives should be left to the discretion
of each community. I understand the
Indians intend to ask that they be allowed
to put forward members for nomination by the
Governor. This method avoids the thorny question
of separate Indian electoral roll. I think it
much better solution for the present and hope the
Indian community generally will accept it.
Agreement will now need careful handling.
Both European and Indian members of
the Committee are real representatives
and will I believe do their utmost with
their own communities. There may be
further trouble with European suburbs
on one side and 2 Indian agitators

ORIGINAL

Dated

192

Received in the

Colonial Office at
Dominions

on

Decoded
Deciphered

of a telegram from the

OZA and DASS on the other but the
latter will not carry sufficient influence to
override PHADKE and PANDAYA if
the Govt of India endorses the agreement.
Phadke in particular has been most helpful
and about the Govt of India will use all
its influence in support of him. Nothing
will be published pending your consideration
of the agreement. Main desideratum if
you concur will be to clinch the agreement
at the earliest possible date and to avoid
public discussion meanwhile. I suggest as
the best course to announce that the
Committee has reached a general agreement
and that amendments to the Bill are now
being drafted to give effect to it; to
publish those amendments in with preliminary

notice of business shortly before the August
session of the Legislative Council; and to
pass the Bill as rapidly as possible in that
session. I shall be on the Northern
Frontier out of reach of telegraph from
5th July to 25th July and shall be
grateful for decision on the course to
be taken before I leave.

- Governor

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session of the Legislative Council - and to
pass the Bill as rapidly as possible in that
session. I shall be on the Northern
Frontier out of reach of telegraph from
5th July to 25th July and shall be
grateful for decision on the course to
be taken before I leave.

- Governor.

1533
35

KENYA

NO. 266

22nd May, 1928.

Sir,

*X
15142
LEA
copy on 15/5/33
no 19*

With reference to my telegram No. 111 of May 9th informing you of certain resolutions passed by the Kenya Central Indian Association, I have the honour to transmit copies of the resolutions relative to the Local Government Commission and the Land Bank Bill together with a covering letter addressed to you by the Honorary General Secretary of the Association.

I have the honour to be,

Sir,

Your most obedient,

humble servant,

EDWARD GRIGG
GOVERNOR.

THE RIGHT HONOURABLE,

LIEUTENANT COLONEL L.C.M.S. AMERY, P.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWLING STREET,

LONDON, S.W.

Y
KENYA

NO. 266

22nd May, 1928.

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EDWARD G. GIBSON
GOVERNOR.

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LIEUTENANT COLONEL L.C.M.S. AMERY, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,

DOWLING STREET,
LONDON, S.W.

X
15/1/28
LEG
15/5/33
copy to 15/5/33

50
41

The Eastern Africa Indian National Congress.

Executive Committee's Office

P. O. Box No. 186.

Telegraphic Address

"CONGRESS"

Reference No.....

NALROBI 14th. May.

1928.

To,

The Secretary of State for Colonies.

L o n d o n .

Sir,

I have the honour to enclose herewith a copy of the resolutions passed unanimously by the Executive Committee of the Kenya Central Indian Association at meeting of the Committee held on the 7th, May, 1928.

I have the honour to be,

Sir,

Your most obedient servant,

W. K. de

Hon. General Secretary.

KENYA CENTRAL INDIAN ASSOCIATION.

RESOLUTION.

The Executive Committee of the Kenya Central Indian Association draws the attention of the Government of the Colony to the dissenting minutes of Mr. V. V. Phadke and Mr. J. B. Pandya and the various representations made by the Indian Community on the recommendations of the Freetham Commission and strongly protests against the proposed introduction of the Bill arising from that report in the Legislative Council at this stage when the whole political situation of the Colony is under investigation by a Royal Commission in total and callous disregard of the representations mentioned above and in disregard of the fact that the Indian Community have laid their case before the Hilton Young Commission and have refused to accept the communal and unequal system of representation accorded to them;

This Committee hereby requests the Government not to proceed with the Bill till the question of the Indian franchise is satisfactorily settled and states that the Indian Community will be reluctantly compelled in case the Government proceed with the Bill to withdraw Indian members from Local bodies and also states that the Indian Community reserve the right to take such steps of Constitutional protests against the measures of the Government as the Kenya Central Indian Association may from time to time decide upon, the responsibility of having driven the Indian community to this position entirely resting with the Government.

NOTICE

...to be established in the Colony...
 ...the various communities and particularly...
 ...in relation to Indians has not yet been finally...
 ...decided...
 ...The proposed Government subsidy to the Bank...
 ...is a charge the whole revenues of the...
 ...territory irrespective of the Bank being...
 ...practically a measure calculated to benefit...
 ...only a single community...
 ...The Indian Community are at present without...
 ...the means of influencing the decision of...
 ...the Legislative Council on this point...

RESOLUTION:-

That this Committee is of opinion that the Bill to establish a land and agricultural Bank in this Colony is premature in view of the fact that

- (1) the question of the allotment of the lands to the various communities and particularly in relation to Indians has not yet been finally decided.
- (2) The proposed Government subsidy to the Bank is a charge the whole revenues of the territory irrespective of the Bank being practically a measure calculated to benefit only a single community.
- (3) The Indian Community are at present without the means of influencing the decision of the Legislative Council on this point.

For Private Secretary's sig.

33

Mr. *Allen* 12.6.28

Mr.

Mr.

Mr. *Bottomley*

Mr. *H. J. Harcourt*

Sir *J. Shuckburgh*

Sir *G. Grindle*

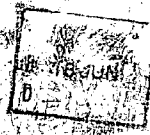
Sir *C. Davis*

Sir *S. Wilson*

Mr. *Ormsby-Gore*

Lord *Bovet*

Mr. *Amery*



Downing Street,

18 June, 1928.

Dear Montearth,

In continuation of my secret letter of the 7th June, I enclose a copy of further private and personal telegraphic correspondence between Mr. Amery and the Governor of Kenya about the Local Government Bill. Mr. Amery would be glad if you would show the telegrams to Lord Birkenhead. *The Governor's original tel. is given to the India Office.* It will be seen from the last sentence of Sir Edward Grigg's telegram that he has complied with the request in Mr. Amery's telegram of the 5th June that copies of the Bill should be sent direct to the Government of India.

DRAFT

SECRET

D. T. MONTEATH, M.A., O.B.E.
(India Office).

*From Mr. E. Grigg 12.6.28
No 30
To Mr. S. Grigg
BY *Amery*
(i.e. p.a.p. tel.)*

(Signed) *your sincere*
Stephan L. Holmes

(4 drafts)

X. 15033/28 Kura 32
40

Coded as sent
12.30 pm 18.6.48
GP

- Mr. *acc. rec. 6.28*
- Mr.
- Mr.
- * Mr. Bottomley. *MP*
- Mr. B. J. Harding.
- Sir J. Shuckburgh.
- Sir G. Grindle.
- Sir C. Davis.
- + Sir S. Wilson. *Off. of Council (10.28)*
- Mr. Ormsby-Gore. *16/6/48*
- Lord Lonsd.
- Mr. Amery. *11/12*

18 June

PRIVATE AND PERSONAL

Your private and personal

telegram of 12th June I am replying
officially to your telegram No. 147
expressing the very real gratifica-
tion which I feel at the arrange-
ment arrived at for consideration
of the Local Government Bill but I
should like to congratulate you
personally on bringing the two
parties together ^{and} in securing their
agreement despite the many diffi-
culties involved to the appointment
of the ~~special~~ Committee.

DRAFT. Gada Tel.

Grigg, Government House,
Nairobi.

Read sent
Let. Sec. of State see
Monday 9.16
16/6/48

Copy to Mombasa for 18 June 48

Amery

(4 drafts)

X. 15032/28

Karya

31

47

Cabled receipt
12.30pm 18.6.28
G.S.

Mr. *Recd 16.6.28*

Mr.

Mr.

Mr. *Baltonley 14*

Mr. F. J. Harding.

Sir J. Shuckburgh.

Sir G. Grinnell.

Sir C. Davis.

+ Sir S. Wilson *file above*

Mr. Ormsby *(Memo 15/6/28) No 29*

Lord Lond.

487

Mr. Amery *concern 17*

DRAFT Gene Tel.

Gov. Nairobi.

82

Copy 6 to 18 June 28

18 June

Your telegram 12th June No.

index

147 I am very glad to learn that the Government's proposals for setting up a Committee outside the Legislative Council to examine the Local Government Bill have been accepted.

It is a matter for general satisfaction that both communities have shown so accommodating a spirit and I feel sure that deliberations in Committee carried on in the same spirit cannot fail to result in a solution acceptable to all concerned.

RECEIVED
14 JUN 1928
C O

50
18

Telegram from the Government of Kenya to the Secretary of State for the Colonies. (Date Dated 12th June, 1928.)

(Received Colonial Office 2.14.28. 13th June, 1928.)

no 79

12th June. Private and Personal. Your private telegram of 5th June. I have had some difficulty in securing agreement to Committee as reported in my official telegram of today's date. European elected members insisted

I think reasonably that representation on their side should be chosen from their number thus kept free of narrow partisan element in Nairobi and suburban areas. They also stipulated that discussion of common roll should be barred. On these conditions final decision to accede to my report was unanimous but they begged me to understand that they had reached and perhaps passed the limits of concessions which they could justify to their constituents. It would be some reference to spirit which they have shown it will be greatly appreciated. Their behaviour is certainly a striking contrast to 1923. Indians on their side tried to stipulate that discussion of common roll should be allowed but otherwise accepted composition of Committee and terms of reference as fully meeting their requirements. I am telegraphing separately on your question regarding balance of representation in Nairobi. Bill has been sent officially to Government of India.

10.5.28

A
12

RECEIVED
JUN 1928
COL. G. G. G.

29

ORIGINAL Decode La telegram from the Governor of Kenya

Dated 12th June 1928 Received in the Colonial Office at 2.46 p.m. on 13th June, 1928

Decoded
Deciphered

Handwritten signature

No. 147.

12th June. Following is text of statement made by me this morning in Legislative Council in regard to Local Government Bill. Begins. Honourable Members of the Council. Amongst the measures which figure in preliminary statement of business for this session which has been issued is the Local Government Bill dealing with the Municipal Governments of Nairobi and Mombasa. I think you will wish that I should give you the earliest possible information about the course which the government proposes to take in regard to that Bill.

*17 June 1928
Copy to
...*

As you know it was the desire of the government that the Bill should be introduced in the Council during this session and that after second reading it should be referred to a select committee composed of apart from official members of equal numbers of the European Elected Members of this Council and Indian members. In ~~the~~ order that that might be possible the government proposed to the Indian community that the Indian members should be nominated to this Council for another year as they have been for four years past. Without that provision discussion by a select committee of the character proposed would have been impossible, there being available in this Council at the present time only one Indian elected member. In making that proposal the government and the whole Colony were going a very long way to meet the feelings of the Indian community which desired not to commit itself on wider question of commonroll and I very much regret that the Indian community refused it.

The normal constitutional principle now would be to carry the Bill through its first stages in this Council and to refer it to a select committee even if it were only possible for one Indian elected member

member

A
12

RECEIVED
13 JUN 1928
COL. OFFICE

29
47

ORIGINAL Decode of a telegram from the Governor of Kenya

Dated 12th June 1928 Received in the Colonial Office at 2.46 p.m. on 13th June, 1928

Decoded by *William*
Deciphered

No. 147.

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15 June
16 June

As you know it was the desire of the government that the Bill should be introduced in the Council during this Session and that after second reading it should be referred to a select committee composed of apart from official members of equal numbers/the European Elected Members of this Council and Indian members. In the order that that might be possible the government proposed to the Indian community that the Indian members should be nominated to this Council for another year as they have been for four years past. Without that provision discussion by a select committee of the character proposed would have been impossible, there being available in this Council at the present time only one Indian elected member. In making that proposal the government and the whole Colony were going a very long way to meet the feelings of the Indian community which desired not to commit itself on wider question of common roll and I very much regret that the Indian community refused it.

16 June
copy to do

The normal constitutional principle now would be to carry the Bill through its first stages in this Council and to refer it to a select committee even if it were only possible for one Indian elected member

member

ORIGINAL

of a telegram from the

Date

192

Received in the

Colonial
Dominions Office at

on

Decoded
Deciphered by

to be member/present. But I recognise and I think every member of this Council recognises that Indian opinion in the Colony has been unsettled in the past few months by the wider issues which have been raised and I think that all are agreed that it is not desirable that a purely municipal, indeed a purely domestic, question like the local governments of Nairobi and Mombasa should be merged in that much wider field of discussion in which municipal questions as such would be obscured by a number of totally extraneous considerations. The government therefore has thought it desirable even at the eleventh hour to secure a round table discussion of the local government bill on its merits between the European and Indian communities and I am very glad that the views commended to the representatives of both communities. I desire to thank all those who have helped to bring about that result. I believe that in doing so they have performed a very real service to the peace and welfare of the Colony.

With the concurrence of both communities the government has therefore arranged that a committee shall meet under an official chairman, my honourable friend the Commissioner for local government, who was himself a member of the Feetham Commission. It is desirable I think that the Committee formed for this purpose should not be unwieldy but that it should be thoroughly representative. It is also desirable, and all are agreed upon this point, that apart from official chairman it ^{should} ~~would~~ contain equal number of both the European and Indian communities. On the whole I think the best way of securing

the

ORIGINAL

of a telegram from the

Dated

192

Received in the

Colonial
Dominions

Office at

OR

Transmitted by
Deciphered by

the result desired, namely that the committee should not be cumbersome but fully representative, is to provide that apart from Commissioner for local government in the Chair there shall be four European members and four Indian members making a total committee of nine. It is clearly right since the Bill is now down in business of this Council that the representation of the European community should be left to European elected members of the Council and I am asking ~~next of the~~ ~~representative of Indian bodies the central Kenya Indian committee~~ most representative Indian body, the Central Kenya Indian committee, to propose four Indian representatives. I think one member in each of those two groups of four should have been a member of Feetham Commission in order that ~~the committee~~ may be preserved.

The object of the Committee, and I want to make this perfectly clear to both communities, is to secure dispassionate discussion of the local government proposals on their merits and to ensure that all concerned shall have the fullest opportunity of putting forward their views upon the Bill so that no relevant considerations may be missed when the Bill comes before this Council. It is essential for this purpose that the Committee should confine itself to problems of municipal government and that it should not become a debating ground for wider issues into which under the White Paper of 1923 this government is not free to enter. It must be clear therefore that deliberations of the Committee are to be governed by ~~that White Paper~~ the White Paper of 1923 and that the government cannot enter into proposals inconsistent with that document.

I should like once more to express my gratitude to all those —

some

ORIGINAL **DECODE** of a telegram from the

Dated 192 . Received in the Colonial Office at Dominions

Decoded
Decyphered by

some of ~~them~~ them at considerable sacrifice of their own opinions as to the proper course to be pursued, who have made it possible to ~~be~~ arrange that this Committee should meet. I trust and I believe all members of this Council without exception trust that the Committee now formed may arrive at a settlement of this ^{vexed} ~~vexing~~ question which is of vital importance to the two main centres of the population of the Colony.

Governor.

1. 150224
Hera

21

- Mr. *Dr. Price 7/6*
- Mr. *Edwards 7/8*
- Mr.
- Mr. Bottomley.
- Mr. E. J. Harding.
- Mr. J. Shuckburgh.
- Sir G. Grindle.
- Sir G. Davis.
- Sir S. Wilson.
- Mr. Ormsby-Gore.
- Lord Loath.
- Mr. Amery.

To go *150224* *acc P*
7. 8. 28

In the *signature*
signature

Incidental
Secret.

4 June 1928

2 DRAFT

Dear Montekath,

I submitted *two*

letters *to the 10th May*

regarding the *Leicester*

Sarcoment Bill to the

Lord who much appreciated

the expedition with which

the matters *raised* ~~discussed~~ & by

4 letters starting of the

19th ~~th~~ May we dealt with

in the Oct.

copies of *to G.*

official

Inggis *tel* 2nd 9 May

J. F. Montekath Esq.
O.D.E.

1.0.

*Copy of the Minutes of
Council & have
(no 26) ✓
(copy beneath in file)*

of the Joint Staff, together with
a copy of the Bill as published in
the Royal Gazette, and then sent

to the Indian Office in an
official letter but Mr Amery has asked me to
send you personally,

for how Bakenhead info, a copy
of a private & personal letter
sent to the
of Mr. Grogg of the same
has been the official letter.

You will see that the

private & personal letter deals
with the points (a) and (b) in

the Viceroys letter of the 25th May
As the Bill includes provisions relating to
Czechoslovakia as special instruction

seems necessary in regard to (b),

and I suggest that the

Indians should be free to raise

the question of Canadian citizenship

in the letter, but the wording

of the official letter to the Govt

and that as regards
(a) the wording of
the special telegram
differs somewhat
from the
draft in
I sent to
Carter.

- Mr.
- Mr.
- Mr.
- Mr. Bottomley.
- Mr. E. J. Harding
- Sir J. Shuckburgh.
- Sir G. Grindle.
- Sir C. Davis.
- Sir S. Wilson.
- Mr. Ormsby-Gore
- Lord Loval.
- Mr Amery.

DRAFT

has been altered so as to
avoid misapprehension as to
the wording of the draft in part
I will also advise

have given
use

In this enclosed letter that
the change has been asked

to supply the info asked for
in the second para of the
Viceroys letter and also to

send copies of the Bill to

the Government of India

Officially

Yours sincerely

Mr. Stephen L. Holmes

X 15033/28 Kenya
Recd 30/6/28

Mr. Parkinson 31.5.28

Mr.
Mr.

* Mr. Battonley 31.5

Mr. E. J. Harding

Sir J. Shackleton

Sir G. Verelst

Sir C. Davis

+ Sir S. Wilson 31/6/28

Mr. Ormsby-Jone

Lord Lovat

* Mr. Amery 20/6/28

for consent.

DRAFT Del. Comm.

Genl. Govt. Secy. H.M.S.O.

2 extra copies

Coded mail
31/6/28

5 June

Private and Personal:

I am sending to-day
official reply to your telegram of
the 9th May. I am sorry not to
have been able to send an earlier
reply but the ^{prolong} ~~prolongation~~ needed
careful consideration and having
regard to the situation which has
developed I felt it necessary to
consult the Secretary of State for
India. The Secretary of State for
India and the Government of India
would much prefer that legislation
be postponed but if the matter is
to be proceeded with now, as I
think it must, they agree that my
suggestion to set up a Committee
outside the Legislature is that
which is best calculated to secure

Indian

Further action -
all yours

Indian goodwill. I fully realise
that the proposed procedure may not
be acceptable either to the Indians
or to the Unofficial European Mem-
bers of Council. But I am anxious,
as I am sure you yourself are, that
we should exhaust all ^{practicable} possible means
of securing Indian co-operation and
I trust therefore that you will see
your way to act upon the suggestion
in my telegram and that you will do
your best to ensure acceptance of the
proposed procedure by all concerned.
I assume that you would ^{arrange} ~~endeavour~~ to
meet personally the more reasonable
Indian leaders like Bhadke and Pandya
and endeavour to induce them to do all
they can to secure the acceptance of
this offer by the Indian community.

As regards composition of proposed
Committee I have suggested in my official

telegram

Indian goodwill. I fully realise that the proposed procedure may not be acceptable either to the Indians or to the Unofficial European Members of Council. But I am anxious, as I am sure you yourself are, that we should exhaust all ^{practicable} ~~possible~~ means of securing Indian co-operation and I trust therefore that you will see your way to act upon the suggestion in my telegram and that you will do your best to ensure acceptance of the proposed procedure by all concerned. I assume that you would ^{arrange} ~~endeavour~~ to meet personally the more reasonable Indian leaders like Phadke and Pandya and endeavour to induce them to do all they can to secure the acceptance of this offer by the Indian community.

As regards composition of proposed Committee I have suggested in my official

telegram

56

telegram that it should be such that
 Indians could have no ground for com-
 plaint that their interests are not
 adequately represented. The Government
 of India urged that provision should be
 made for quote equal Indian representa-
 tion quote and if you could arrange
 it should go a long way towards
 this ~~ensuring their acceptance~~ ^{ensuring their acceptance and}
~~also~~ I understand that should the
 Indian leaders express a desire to con-
 sult the Government of India on behalf
 of the East Africa Indian Congress the
 Government of India would be willing to
 advise them to accept the offer.

The Government of India were
 informed that I learned from you
 privately that you had carefully con-
 sidered the suggestions in paragraph 6
 of their telegram of 20th January (see
 your telegram of 5th March) and that
 while it is understood that as regards

[N° 2]
 [N° 12]

Mombasa

telegram that it should be such that Indians could have no ground for complaint that their interests are not adequately represented. The Government of India urged that provision should be made for quite equal Indian representation ^{and} if you could arrange this ~~it should go a long way towards ensuring Indian representation and~~ ~~that~~ I understand that should the Indian leaders express a desire to consult the Government of India on behalf of the East Africa Indian Congress the if equal representation can be arranged Government of India would be willing to advise them to accept the offer.

The Government of India were informed that I learned from you privately that you had carefully considered the suggestions in paragraph 4 of their telegram of 30th January (see your telegram of 5th March) and that while it is understood that as regards

[N^o 2]
[N^o 12]

Nairobi you thought you could meet
the Government of India you were not
optimistic as to Nairobi as if the
balance of representation were altered
as suggested the inclusion of the
outer suburbs would be impossible and
the whole scheme would then fall to the
ground. The Government of India would
like to know what has led you to the
conclusion that their suggestion as to
Indian representation on the Municipal
Council of enlarged Nairobi would render
the inclusion of the outer suburbs
impossible. They ask for information
so as to be able to consider whether any
modification of their suggestion is
necessary. I should be glad if you
could send me fuller statement on this
matter for communication to the Government
of India.

The Government of India would be

grateful

grateful if you could send them at once
copies of the bill as published and I
should be glad if you would ^{do this} ~~communicate~~
officially.

SECR.

X
150331 28 Kenya
25

Mr. Parkinson 15/5/28
Mr.
Mr.

Registered
30/5/28
5/6/28
B.W.

TO GO IN DRAFT TO
INDIA OFFICE

Mr. Bottomley 15/5

For de-facto
used 5/6 at 5th June
Confidential.

Mr. E. J. Harding.

Sir J. Shuckburgh.

Sir G. Grindle.

Sir O. Davis.

Sir S. Wilson. 8/16
16.5

Mr. Ormsby-Gore.

Lord Lovat.

Mr. Amery. Carson June 11

DRAFT Telegram.

Governor Nairobi.

2 extra copies
etc

Your telegram of 9th May

No. 111. I note the resolutions forwarded by the Kenya Central Indian Association and the Mombasa Association from which it appears that

application of Indian Local Government Commission Bill is based upon objection to any form of communal franchise whether for legislative or for municipal bodies.

Action is urgently required in order to effect improvement in the administration of the municipal service of Nairobi and after the detailed examination of the matter by the Commission which was entirely non-political in character it is with much regret that I learn that progress

21 MAY 1928

JUN 1928

copy to
copy to
copy to

Re-submitted with revisions suggested in red ink - see minutes

31.5.28
Mr Bottomley S.I.S.

Mr S. Wilson 4.6.28

Mr Amery

is delayed by the importation of political considerations.

As an alternative to the proposed examination of the Bill by a Select Committee of the Legislative Council which cannot now be representative in view of the fact that the Indians have declined to accept nomination I would suggest that a special Committee might be set up outside the Legislative Council to examine and report to you upon the bill, the ^{Committee} ~~office~~

to consist of persons duly qualified to advise on account of ^{their} knowledge ~~and~~

the questions and interests involved ^{of course} including ~~adequate~~ number of Indians.

~~including adequate number of Indians~~

~~including adequate number of Indians~~ If this suggestion is adopted I think that it should be made clear by you that in setting up such a Committee ^{object of the} the Government have in mind the desirability of avoiding all political issues

The composition of the Committee should be such that Indians could have no grounds for complaint that their interests are not adequately represented.

is delayed by the importation of political considerations.

As an alternative to the proposed examination of the Bill by a Select Committee of the Legislative Council which cannot now be representative in view of the fact that the Indians have declined to accept nomination I would suggest that a special

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Legislative Council to examine and

report to you upon the Bill, the ^{Committee} ~~Committee~~

to consist of persons duly qualified

to advise on account of ^{their} knowledge ~~and~~

the questions and interests involved

^{of course} including ~~adequate~~ number of Indians

~~including adequate number of Indians~~

~~including adequate number of Indians~~ If this suggestion is adopted

I think that it should be made clear by

you that in setting up such a Committee

^{object of the} Government have in mind the desirability of avoiding all political issues

~~ability of avoiding all political issues~~

The composition of the Committee should be such that Indians could have no ground for complaint that their interests are not adequately represented.

is to ensure that there be
discussion of the Government's
proposals on their merits and to
and that it is their object to

ensure that all concerned should have
fullest opportunity of putting forward
their views upon the draft Bill, so
that no relevant considerations may
be over-looked in the framing of
legislation to meet the immediate
administrative requirements of the
situation. At the same time you would
make it clear that if the Indian commu-
nity should be unable to accept this
further offer the Government would
feel themselves at liberty to proceed
forthwith with consideration of the Bill
in the ordinary way much as they would
regret the absence of Indian members
from the Council when such legislation
is being dealt with.

SACER.

is to accept, ~~is to accept~~ ^{is to accept} the
discussion of the Government's
members on their merits and to
~~and that it is their object to~~

ensure that all concerned should have
fullest opportunity of putting forward
their views upon the ~~draft~~ Bill so
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in the ordinary way ~~and~~ they would
regret the absence of Indian members
from the Council when such legislation
is being dealt with.

SECRET

SECRET
Department of the Government
respects on their views and to
and that it is their object to

ensure that all concerned should have fullest opportunity of putting forward their views upon the draft Bill so that no relevant considerations may be over-looked in the framing of legislation to meet the immediate administrative requirements of the situation. At the same time you would make it clear that if the Indian community should be unable to accept this further offer the Government would feel themselves at liberty to proceed forthwith with consideration of the Bill in the ordinary way much as they would regret the absence of Indian members from the Council when such legislation is being dealt with.

SECRET

to secure *of reasonable* 5
consent of the Government
to their needs and to
and that it is their object to

ensure that all concerned should have fullest opportunity of putting forward their views upon the draft Bill so that no relevant considerations may be overlooked in the framing of legislation to meet the immediate administrative requirements of the situation. At the same time you would make it clear that if the Indian community should be unable to accept this further offer the Government would feel themselves at liberty to proceed forthwith with consideration of the Bill in the ordinary way much as they would regret the absence of Indian members from the Council when such legislation is being dealt with.

SINCERELY

INDIA OFFICE,

WHITEHALL, S.W.1.

30th May 1928.

Urgent.

Comp. Dir. Ind.

Dear Edgcumbe,

no 20.
You spoke to me on Friday regarding your letter of the 19th May on the subject of legislation in Kenya to give effect to the recommendations of the Feather Commission. Your letter was laid at the earliest opportunity before the Secretary of State who at once consulted the Viceroy privately. I enclose a copy of Lord Irwin's reply.

Lord Birkenhead entirely agrees with the Viceroy in thinking that the arguments in favour of postponing this legislation are as strong as they were when early in the year Mr. Amery himself decided on this course and he believes that the work of the Milton-Young Commission will be seriously prejudiced if the Bill be now referred to a Committee. He does not think that this would be at all likely to lead to any useful result for even if both the Europeans and the Indians agreed to serve (and this seems doubtful) the prospect of

J.A.P. Edgcumbe, Esq., CBE.

Teaching

reaching a settlement by agreement in the present atmosphere of controversy is exceedingly remote. Lord Birkenhead fully realises the necessity of improving the municipal administration in Nairobi but as the Bill has already been postponed and as the East Africa Commission has almost concluded its labours he would urge very strongly that nothing should be done until the Commission's Report has been received and considered.

Should however Mr. Arden feel that the local arguments in favour of pressing forward this legislation outweigh the wider advantages of postponement, Lord Birkenhead would commend to his favourable consideration the suggestions made by the Viceroy in the first paragraph of his telegram. He would also ask that the information referred to in the second paragraph might be supplied and that the Governor might be asked to send a copy of the Bill direct to the Government of India if this has not already been done.

Yours sincerely
D. P. Malet

Telegram from Viceroy dated 25th May 1928.

Immediate.

286-S.

Your private telegram of 23rd instant, 1375. Feetham Commission's report. In our view the arguments in favour of postponement of legislation are as strong to-day as they were when my telegram of January 20th was despatched. Announcement of decision to proceed with legislation now, with the co-operation of the Indian community if possible, without it if necessary, may stiffen the attitude of defiance of the Indian leaders. However, if the Colonial Office think the reasons for proceeding immediately with legislation are so imperative that the risk must be faced, suggestion to set up committee outside the legislature to consider the proposed bill seems best calculated to secure Indian goodwill, though I fear that chance of securing this in the present temper of the Indian leaders is small. We think that the offer to set up such Committee would stand better chance of acceptance by Indians if it

(a) provided for equal Indian representation,

(b)

62

(b) left Indians free to raise the question of common electorates in Committee and (c) Governor personally met the more reasonable Indian leaders like Phadke and Pandya and tried to induce them to endeavour to secure the acceptance of the offer by their community. Should the Indian leaders express the desire to consult us, on behalf of the East African Indian Congress, in the matter, we shall be willing to advise them to accept the offer, provided the suggestions made by us above are agreed to.

Could you let us know how the Governor has arrived at the conclusion that our suggestion as to Indian representation on the Municipal Council of enlarged Nairobi would render the inclusion of the outer suburbs impossible. We want the information so as to be able to consider whether any modification of our suggestion is necessary. Prima facie we are inclined to adhere to that suggestion, as being both feasible and fair.

3. We should like copies of the Bill as published in the Kenya Gazette sent to us immediately.

63

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Colony and Protectorate of Kenya

GOVERNMENT NOTICE No. 205.

NOTICE

The following Bill is published for information and criticism.

A. M. LOGAN.

Clerk to Executive Council.

A Bill to Amend the Law relating to Municipal Government and to provide for matters incidental thereto.

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 Local Government (Municipalities) Ordinance, 1928," and shall come into operation upon such date as the Governor may by notice in the Gazette appoint.

Short title and commencement.

2. In this Ordinance, unless the context otherwise indicates, the following definitions shall apply:—

Interpretation.

- 5 "Medical Officer of Health" includes an Assistant Medical Officer of Health.
- 10 "Municipality" means the area or district placed under the jurisdiction of a Municipal Council or Municipal Board;
- 15 "Native" means a native of Africa and includes Somalis, Swahilis, Comoro Islanders and Madagascanians;
- 20 "Owner," in the case of freehold property, means the person (other than His Majesty) owning such property, and, in the case of leasehold or other property, means the person (other than His Majesty) holding such property from the Crown or from a Municipal Council or Municipal Board as lessee or licensee, and includes any agent who receives rents or profits from such person and also any superintendent, overseer or manager of any such lessee or licensee in respect of the holding on which he resides as such superintendent, overseer or manager;
- 25 "Occupier" includes any person in actual occupation of land or premises without regard to the title under which he occupies, and, in the case of premises sub-divided and let to lodgers or various tenants, includes also the person receiving the rent payable by the lodgers or tenants whether on his own account or as agent for any person entitled thereto or interested therein;
- 30 "Premises" includes any land, building, room, structure, tent, van, vehicle, stream, lake, dam, pool, drain or ditch (open or enclosed) whether public or private;

Colony and Protectorate of Kenya.

GOVERNMENT NOTICE NO. 205

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"Native" means a native of Africa and includes Somalis, Wahilis, Comoro Islanders and Madagascan;

"Owner" in the case of freehold property, means the person (other than His Majesty) owning such property, and, in the case of leasehold or other property, means the person (other than His Majesty) holding such property from the Crown or from a Municipal Council or Municipal Board as lessee or licensee, and includes any agent who receives rents or profits from such person and also any superintendent, overseer or manager of any such leases or licensee in respect of the holding on which he resides as such superintendent, overseer or manager;

"Occupier" includes any person in actual occupation of land or premises without regard to the title under which he occupies, and, in the case of premises sub-divided and let to lodgers or various tenants, includes also the person receiving the rent payable by the lodgers or tenants whether on his own account or as agent for any person entitled thereto or interested therein;

"Premises" includes any land, building, room, structure, tent, van, vehicle, stream, lake, dam, pool, drain or ditch (open or enclosed) whether public or private;

Public place includes any road, street, thoroughfare, foot-pavement, footpath, sidewalk, lane, square, open space, garden, park or enclosed space, vested in a Municipal Council or Municipal Board under this Ordinance;

Public vehicle includes any cab, cart, omnibus, ricksha, trolley, motor vehicle, or any other vehicle standing or plying for hire in any public place within a municipality.

Sanitary Inspector means and includes any person for the time being lawfully acting in the capacity of sanitary inspector.

Street means any highway, road, or sanitary lane, or any land reserved for a highway, road or sanitary lane, and includes any bridge, footway, square, court, alley or passage, whether a thoroughfare or not.

Street trading includes the hawking of newspapers, matches, flowers and other articles, the distribution of handbills or other advertisements, and shoe-blacking and any other like occupation carried on in any public place; and "Street trader" includes any person who engages in any such occupation so carried on.

This Ordinance is divided into nine Parts relating to the following matters:—

Part I.—Establishment of Municipalities and Constitution of Municipal Councils and Municipal Boards

- (A) Nairobi.
(B) Mombasa.
(C) General.

Part II.—Provisions relating to Elections.

Part III.—Appointment of Officers of Municipal Councils and Municipal Boards.

Part IV.—Meetings and Proceedings of Municipal Councils and Municipal Boards.

Part V.—Powers and Duties of Municipal Councils and Municipal Boards.

Part VI.—Financial Provisions.

Part VII.—Establishment of Central Authority and Organisation for Local Government Purposes.

Part VIII.—Special Powers of the Governor.

Part IX.—Legal Procedure and Miscellaneous.

PART I.

ESTABLISHMENT OF MUNICIPALITIES AND CONSTITUTION OF MUNICIPAL COUNCILS AND MUNICIPAL BOARDS.

(A) Nairobi.

4. For the purposes of this Ordinance the municipality of Nairobi shall be the area included within the boundaries set forth in the First Schedule to this Ordinance.

5. There shall be constituted for the municipality of Nairobi a Municipal Council which shall consist of—

- (1) Nine European members to be elected as hereinafter provided;
(2) Five Indian members to be elected as hereinafter provided.

(3) One Gown member to be nominated by the Governor;

(4) One member, to be nominated by the Governor, to represent the Government of the Colony with a special view to the safeguarding of native interests;

(5) One member, to be nominated by the Governor, to represent the Kenya and Uganda Railways and Harbours Administration;

(6) One representative of such local authority (if any) as may be established for the rural area adjacent to the municipality of Nairobi, to be nominated by the Governor.

6. (1) The municipality of Nairobi shall be divided into six European wards and three Indian wards which shall be, respectively, the areas described in the Second Schedule to this Ordinance and shall be designated as follows:—

European wards

- (a) The Town Ward.
(b) The Hill Ward.
(c) Parklands Ward.
(d) Ngong Road Ward.
Westlands Ward.
Muthaiga Ward.

Indian wards

- (a) East Ward.
(b) Central Ward.
(c) West Ward.

(2) The Governor may from time to time, with the advice and consent of the Nairobi Municipal Council, by proclamation alter the boundaries of any ward mentioned in this section.

7. The elected members of the Nairobi Municipal Council shall be elected to represent the respective wards as follows:—

European wards

- The Town Ward Two members
The Hill Ward Two members
Parklands Ward Two members
Ngong Road Ward One member
Westlands Ward One member
Muthaiga Ward One member

Indian Wards

- East Ward One member
Central Ward Two members
West Ward Two members

(B) Mombasa

8. For the purposes of this Ordinance the municipality of Mombasa shall be the area included within the boundaries set forth in the Third Schedule to this Ordinance.

9. There shall be constituted for the municipality of Mombasa a Municipal Board which shall consist of—

- (1) The Resident Commissioner who shall be Chairman;
(2) Three European members to be elected as hereinafter provided;
(3) Three Indian members to be elected as hereinafter provided;
(4) Two Arab members to be elected as hereinafter provided.

Municipal Ordinance

Area of municipality of Nairobi

Constitution of Nairobi Municipal Council

Handwritten notes in margin: 1. Nairobi, 2. Mombasa, 3. Nairobi, 4. Nairobi, 5. Nairobi, 6. Nairobi, 7. Nairobi, 8. Nairobi, 9. Nairobi, 10. Nairobi, 11. Nairobi, 12. Nairobi, 13. Nairobi, 14. Nairobi, 15. Nairobi, 16. Nairobi, 17. Nairobi, 18. Nairobi, 19. Nairobi, 20. Nairobi, 21. Nairobi, 22. Nairobi, 23. Nairobi, 24. Nairobi, 25. Nairobi, 26. Nairobi, 27. Nairobi, 28. Nairobi, 29. Nairobi, 30. Nairobi, 31. Nairobi, 32. Nairobi, 33. Nairobi, 34. Nairobi, 35. Nairobi, 36. Nairobi, 37. Nairobi, 38. Nairobi, 39. Nairobi, 40. Nairobi, 41. Nairobi, 42. Nairobi, 43. Nairobi, 44. Nairobi, 45. Nairobi, 46. Nairobi, 47. Nairobi, 48. Nairobi, 49. Nairobi, 50. Nairobi.

Division into wards

Allocation of seats in case of elected members

Area of municipality of Mombasa

Constitution of Mombasa Municipal Board

- (5) Six European members, to be nominated by the Governor;
- (6) Three Indian members, to be nominated by the Governor;
- (7) One member, to be nominated by the Governor, to represent the Government of the Colony;
- (8) One member, to be nominated by the Governor, to represent the Kenya and Uganda Railway;
- (9) One member, to be nominated by the Governor, to represent the Port Administration.

10. (1) The Governor may, with the advice and consent of the Mombasa Municipal Board, by proclamation divide the municipality of Mombasa into such European, Indian and Arab wards as he may deem necessary, and, subject to the provisions of the last preceding section, may declare the number of elected members to be returned for each such ward:

(2) Provided that pending the establishment of wards under this section the municipality of Mombasa shall, for the purpose of the election of members, be deemed to be one ward.

(3) The Governor may from time to time, with the advice and consent of the Mombasa Municipal Board, by proclamation alter the boundaries of any ward established under sub-section (1) of this section and may alter the number of elected members to be returned for any such ward.

(C) General.

21. Subject to the provisions of the next succeeding section, the Governor may from time to time, by proclamation, exercise all or any of the following powers, that is to say, he may:—

- (1) (a) declare any area to be a municipality under the jurisdiction of a Municipal Council and constitute for such municipality a Municipal Council in accordance with section 13 of this Ordinance;
- (b) declare any area to be a municipality under the jurisdiction of a Municipal Board and constitute for such municipality a Municipal Board in accordance with section 13 of this Ordinance, and define the powers and duties under Part V of this Ordinance to be exercised by any such Municipal Board;
- (2) assign a name to any such municipality;
- (3) define the boundaries of any such municipality, and from time to time alter any such boundaries;
- (4) divide any municipality into wards and declare the number of elected members to be returned for each such ward;
- (5) from time to time alter the boundaries of any such ward and alter the number of elected members to be returned for each such ward;
- (6) with the consent of the Municipal Council or Municipal Board as the case may be, divide any such municipality or ward into polling districts and from time to time increase or decrease the number of such districts or alter the boundaries thereof.

12. (1) Prior to the exercise of any of the several powers conferred by the last preceding section the Governor shall appoint the Commissioner for Local Government, to inquire into and report as to the advisability of the exercise by the Governor of any of the powers so conferred, and for the purpose of such inquiry the Governor may confer on the Commissioner for Local Government all or any of the powers vested in Commissioners under the Commissions of Inquiry Ordinance.

Powers under preceding section to be exercised only after preliminary inquiry.

(2) Notice of such appointment and particulars of the power or powers proposed to be exercised shall be published in three consecutive issues of the Gazette.

(3) The report of the Commissioner for Local Government shall be submitted to the Governor through the Standing Committee established under section 125 of this Ordinance, and such Committee shall record its recommendations thereon.

13. (1) There shall be constituted within every municipality established under section 11 of this Ordinance a Municipal Council or a Municipal Board which shall consist of such number of elected and nominated (official and unofficial) members as the Governor may, by proclamation, appoint. Such elected members shall be elected as hereinafter provided, and any such nominated members shall be nominated by the Governor.

Constitution of Municipal Councils and Boards.

(2) Every person nominated by the Governor to be an European member of any Municipal Council or Municipal Board constituted by or under this Ordinance shall possess the qualifications required by this Ordinance in the case of an European elected member of such Council or Board, and every person nominated to be an Indian member of any such Council or Board shall possess the qualifications required by this Ordinance in the case of an Indian elected member of such Council or Board, and the provisions of this Ordinance relating to the vacating of seats by and disqualifications of elected members shall apply *mutatis mutandis* to all members so nominated.

Qualifications and disqualifications of nominated members.

(3) Whenever a vacancy is caused in any Municipal Council or Municipal Board by the death, retirement or disqualification of any nominated member or by a nominated member vacating his seat, the Town Clerk shall forthwith notify the Commissioner for Local Government of such vacancy, and thereupon the Governor may nominate another European, Indian or ~~other~~ member, as the case may be, to fill the vacancy.

14. Every Municipal Council and every Municipal Board constituted by or under the provisions of this Ordinance shall under the name of "The Municipal Council or Board of _____", be each and severally a body corporate with perpetual succession and a common seal (with power to alter such seal from time to time), and shall by such name be capable in law of suing and being sued, of purchasing, holding, and alienating land, and, generally, of doing and performing such acts and things as bodies corporate may by law do and perform, subject to the provisions of this Ordinance and any other law.

Municipal Councils and Boards to be bodies corporate.

Powers to establish wards.

Powers of Governor in regard to municipalities.

PART II

Provisions Relating to Electors.

Registration of Voters.

15 (1) A Council or Board shall, as soon as possible after it has been duly constituted under the provisions of this Ordinance, and thereafter once in every three years, by a date to be fixed by the Commissioner for Local Government, cause separate lists to be made

- (a) of all Europeans; and
(b) of all Indians

who are qualified to be enrolled as voters under this Ordinance. Such lists shall, respectively, be sub-divided into as many parts as there are wards of the municipality, and each such part shall show in alphabetical order the full name, residential address, occupation, and nature of the qualification of every voter qualified to vote within the ward to which such part refers.

Provided that the Mombasa Municipal Board shall also cause a separate list to be made of all Arabs who are qualified to be enrolled as voters in respect of the municipality of Mombasa.

(2) Whenever the boundaries of any municipality have been altered, or whenever the number of wards in a municipality has been increased or decreased or the boundaries thereof altered, the Council or Board, as the case may be, shall, as soon as possible after such alteration, increase or decrease, cause such alterations to be made in the respective voters' rolls as may be necessary to show correctly the particulars of voters resident in the municipality or in each ward, as the case may be.

(3) Whenever any ward has been divided into polling districts or any increase, decrease, alteration or adjustment of such districts has been made under sub-section (b) of section 13 of this Ordinance, the Council or Board, as the case may be, shall compile from the voters' roll of such ward a register of voters for each such polling district, consisting of the voters for the ward who are entitled to vote in such polling district.

(4) The Governor may order all such steps to be taken with regard to the preparation of the first voters' rolls for any municipality to which the provisions of this Ordinance apply or may hereafter become applicable as he may deem necessary to meet the circumstances of the case.

16. The registering officer for the purpose of the preparation of voters' rolls under this Ordinance shall be the Town Clerk or such other person as the Council or Board, as the case may be, may, with the approval of the Commissioner for Local Government, appoint.

17. Subject to the provisions of this Ordinance every person shall be entitled, upon application to the registering officer, to be enrolled in the European Voters' roll and to vote at the election of an European member who is

- (1) of European origin or descent; and
(2) of not less than twenty-one years of age; and

(3) either—

- (a) owns rateable property within the municipality of the capital value of one hundred pounds; or
(b) (i) has resided in the municipality for twelve months out of the twenty-four months preceding the date of application for enrolment, and either
(i) has been in occupation for a like period of premises in the municipality of an annual value of thirty-six pounds; or

(ii) is, at the date aforesaid, and has been for six months out of the preceding twelve months, in receipt of earnings at the rate of not less than ten pounds per month.

Provided that in the municipalities of Nairobi and Mombasa the rate of earnings under paragraph (b) (ii) shall be not less than fifteen pounds per month.

A married woman who is qualified for enrolment under paragraphs (1), (2) and (3) (b) (i) of this section shall be entitled to be enrolled notwithstanding that she does not possess either of the qualifications numbered (ii) and (iii) in paragraph (3) (b) provided that her husband is so qualified.

18. Subject to the provisions of this Ordinance every person shall be entitled, upon application to the registering officer, to be enrolled in the Indian Voters' roll and to vote at the election of an Indian member who is—

- (1) a British subject of Indian origin or descent or an Indian under the suzerainty or protection of His Majesty; and

(2) of not less than twenty-one years of age; and

(3) either—

- (a) owns rateable property within the municipality of the capital value of one hundred pounds; or
(b) (i) has resided in the municipality for twelve months out of the twenty-four months preceding the date of application for enrolment, and either
(i) has been in occupation for a like period of premises in the municipality of an annual value of twelve pounds; or

(ii) is, at the date aforesaid, and has been for six months out of the preceding twelve months, in receipt of earnings at the rate of not less than five pounds per month.

A married woman who is qualified for enrolment under paragraphs (1), (2) and (3) (b) (i) of this section shall be entitled to be enrolled notwithstanding that she does not possess either of the qualifications numbered (ii) and (iii) in paragraph (3) (b) provided that her husband is so qualified.

19. Subject to the provisions of this Ordinance every male Arab resident within the municipality of Mombasa shall be entitled, upon application to the registering officer, to be enrolled in the Arab voters' roll and to vote at the election of an Arab member who is—

- (1) a British subject or is under the suzerainty or protection of His Majesty; and

Qualifications of Indian voters.

Qualifications of Arab voters in Mombasa.

Registration of voters' rolls.

Registering officer.

Qualifications of European voters.

- (2) of not less than twenty-one years of age; and
- (3) able to write Arabic or Swahili in Arabic characters.

Disqualification of voters

20. Notwithstanding anything in the preceding sections of this Ordinance contained, no person shall be entitled to have his name entered upon any voters' roll or to vote at any election if such person—

- (a) has been found by a competent court to be of unsound mind; or
- (b) has been convicted of a criminal offence, whether in the Colony or elsewhere, and has been sentenced to imprisonment for a term of not less than twelve months and has not received a free pardon: Provided that such disqualification shall cease two years after the date of the expiration of the sentence; or
- (c) has received relief from any public funds within twelve months prior to the date of his application to have his name entered upon the voters' roll; or
- (d) has been declared bankrupt or insolvent by a competent court, either in the Colony or elsewhere, and has not received his discharge; or
- (e) is suffering from any disqualification provided by any enactment for the time being in force.

Voters to be enrolled in ward in respect of which they are qualified

21. Every person who is entitled to be enrolled in any voters' roll in respect of a property qualification shall be enrolled in the ward in which such property is situated: and every person who is entitled to be enrolled in respect of a residential qualification shall be enrolled in the ward in which he resides.

Notices of objection to list

22. The registering officer shall cause every voters' roll framed under the provisions of this Ordinance to be deposited in the municipal offices for inspection by the public, and shall cause to be published in the Gazette and in one or more newspapers (if any) circulating in the municipality a notice that all objections and claims to be enrolled will be heard at some time and place to be therein stated: Provided that such time shall not be less than fourteen days after the publication of such notice.

Determination of claims and objections

23. (1) The Resident Magistrate for the district shall hear and determine all claims and objections, and may enrol the names of any persons qualified which have been omitted from the appropriate voters' roll, and shall strike out the names of all persons not entitled to be enrolled.

Provided that the name of any person shall not be struck out until such person shall have had not less than two days' notice of the investigation of his qualification, and such person shall, if he shall so desire, be heard in regard thereto either personally or by an advocate.

(2) The hearing and determination of any claim or objection under this section may be adjourned from time to time, and the decision upon any such claim or objection shall be subject to appeal to a Judge in Chambers if notice thereof be given by any interested person within two days after the declaration of such decision. The Judge in Chambers hearing such appeal may uphold or reverse the decision and may make such order as to costs as may seem just.

24. Subject to the provisions of the next succeeding section the voters' rolls when so settled and amended shall be the voters' rolls for the municipality until the next voters' rolls shall in like manner be completed; and such voters' rolls shall be deemed to be conclusive and the only proof of the right of every person enrolled therein to vote at the election of members of the Council or Board, as the case may be.

Provisions for addition of names to voters' roll

25. Any person who is not on the appropriate voters' roll in force for the time being in a municipality may at any time apply to the registering officer to be enrolled as a voter, and the registering officer being satisfied that such person is qualified under this Ordinance to be so enrolled shall cause the name of such person to be placed on the voters' roll. If the registering officer shall refuse any application under this section the applicant may appeal to the Resident Magistrate for the district, and the application shall be disposed of in the manner provided by section 23 of this Ordinance.

26. Every voters' roll framed or amended under the provisions of this Ordinance shall be deposited at the municipal offices for inspection by the public during office hours.

27. Any person who wilfully makes any false statement on an application to be enrolled upon any voters' roll under this Ordinance shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty-five pounds or to imprisonment of either description for a period not exceeding three months or to both such fine and imprisonment.

Elections

28. (1) The first election of members of the Municipal Council (hereinafter referred to as "councillors") or of members of the Municipal Board (hereinafter referred to as "members"), as the case may be, of any municipality constituted by or under the provisions of this Ordinance shall be held in the manner hereinafter prescribed as soon as may be after the preparation of the voters' rolls in such municipality. The date of any such election shall be such date as may be notified in the Gazette by the Commissioner for Local Government.

(2) The councillors and members so elected shall be elected for a term of three years.

Holders of first elections, and term of office

Provided that of the councillors and members so elected one third, or as near as may be, shall retire at the expiration of twelve months from the date of such first election, and one third, or as near as may be, shall retire at the expiration of twenty-four months from the date of such election.

Provided, further, that the councillors and members so retiring shall be chosen by ballot, and any such councillor or member shall be eligible for re-election.

29. (1) After the first election of councillors or members as aforesaid there shall be, in each municipality, an annual election of councillors or members, as the case may be, to be held upon such date as may be notified in the Gazette by the Commissioner for Local Government, for the purpose of electing councillors or members to replace an equal number of councillors or members retiring from office.

Annual elections to be held: Term of office of councillors and members elected at such elections

20. The councillors and members elected at every such annual election to fill the vacancies caused by the retirement of councillors or members owing to the expiration of their term of office shall continue in office until the date of the third annual election next ensuing.

30. (1) Subject to any of the disqualifications mentioned in subsection (2) of this section any person who is and who is entitled to be enrolled as a voter in any municipality shall be eligible for election as a member of the Municipal Council or Municipal Board, as the case may be, of such municipality.

(2) A person shall be disqualified for election as a member of any Municipal Council or Municipal Board if such person—

- (a) is not a British subject; or
- (b) cannot read, write and speak the English language; or
- (c) is in the employment of, or holds any office or place of profit under or in the gift of, the Council or Board; or
- (d) has been convicted of a criminal offence, whether in the Colony or elsewhere, and has been sentenced to imprisonment for a term of not less than six months and has not received a free pardon: Provided that the Governor may by order in any particular case remove such disqualification; or
- (e) has received relief from any public funds within twelve months prior to the date of his nomination as a candidate for election.

(3) A candidate for election who has undertaken, either directly or indirectly by himself or by anyone in trust for him, any contract with a Municipal Council or Municipal Board for which the consideration exceeds seventy-five pounds shall not be disqualified for election to such Council or Board, or the case may be, if he shall, at least fourteen days prior to the date appointed for the election, publish in some newspaper circulating in the electoral area for which he is a candidate the fact of such contract, giving particulars thereof.

(4) The election of any candidate who fails to comply with the provisions of the last preceding subsection shall be invalid and his seat shall be deemed to be vacant, and the candidate shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty pounds, and shall for a period of seven years from the date of his election be disqualified from voting at any election under this Ordinance and from being elected as a councillor or member of any Municipal Council or Municipal Board.

31. (1) Whenever a vacancy is caused by the death of any elected councillor or member, or by an elected councillor or member retiring or vacating his seat (otherwise than by reason of the expiration of his term of office), the Town Clerk shall forthwith notify the Commissioner for Local Government of such vacancy, and an election shall be held, upon such date as may be notified in the Gazette by the Commissioner for Local Government, for the purpose of electing a councillor or member, as the case may be, to replace the councillor or member so retiring or vacating his seat.

(2) The councillor or member elected to fill a vacancy under this section shall hold office for the remainder of the term for which the councillor or member who has retired or vacated his seat would have been entitled to remain in office.

32. Any elected councillor or member who ceases to possess the qualifications by this Ordinance prescribed, or who is a paid agent for any candidate at an election under this Ordinance, or who becomes disqualified under this Ordinance, shall ipso facto vacate his office, and the Mayor or Chairman, as the case may be, shall at the next meeting of the Council or Board declare the seat of such councillor or member to be vacant, and the Town Clerk shall forthwith notify the Commissioner for Local Government of such vacancy. In any such case such vacancy shall be filled by election in the manner prescribed by the last preceding section.

15. Provided, however, that a councillor or member whose seat shall have been declared vacant under this section may, within fourteen days after the date of such declaration, apply to a Judge of the Supreme Court in Chambers to have such declaration set aside. Notice of the intention to make such application and the grounds thereof shall be given to the Town Clerk within two days after such declaration. The order of the Judge in Chambers as to the disqualification or otherwise of the councillor or member shall be final and without appeal.

33. The Town Clerk or such other person as the Council or Board, as the case may be, may, with the approval of the Commissioner for Local Government, appoint and be the returning officer at every election held under this Ordinance.

25. 34. (1) The Town Clerk or such other person as may have been appointed as returning officer under the last preceding section shall, not less than twenty-one days prior to any election, cause to be published in the Gazette and in one or more newspapers (if any) circulating in the municipality, and to be posted at such conspicuous places as he shall think fit within the ward or wards in which the election is to be held, a notice of such election, and in such notice he shall specify the day and place on and at which he will receive the nomination of candidates for the seat or seats to be filled by election.

(2) The day so fixed shall be not less than ten nor more than fourteen days from the date of the publication of the notice.

30. 35. (1) On the day and at the place fixed under the last preceding section the returning officer shall attend at eleven o'clock in the forenoon and for thirty minutes thereafter and shall receive the nomination of any duly qualified candidate for the seat or seats to be filled.

45. (2) Every candidate shall be proposed and seconded and shall be supported by not less than seven persons other than the proposer and seconder. The proposer and seconder and supporters shall be persons whose names appear on the appropriate voters' rolls for the municipality or ward, as the case may be, for which the candidate seeks election.

50. (3) Every nomination paper shall be in a form to be prescribed by rules under this Ordinance, and the signatures of the proposer and seconder and supporters shall be witnessed by a magistrate, justice of the peace or notary public.

Disqualifications in which councillors and members are disqualified.

Returning officer.

Notice of election.

Nomination of candidates.

4) Every nomination paper subscribed and witnessed as aforesaid shall be delivered to the returning officer by the candidate or by his proposer or seconder at this time and at the place appointed, and any nomination paper which is not so delivered shall be rejected.

Description of candidates, and extinguishing of nomination papers.

36. (1) Every candidate shall be described in his nomination paper in such manner as in the opinion of the returning officer is calculated sufficiently to identify such candidate. No objection to a nomination paper on the ground of the description of the candidate therein being insufficient, or on the ground that such nomination paper does not comply with the provisions of this Ordinance or any rules made thereunder, shall be valid unless such objection is made to the returning officer at or immediately after the time of delivery of the nomination paper. The decision of the returning officer as to the sufficiency of any nomination paper shall be final.

3) The returning officer shall permit any candidate and his proposer and seconder to examine the nomination paper of any other candidate.

Procedure for election of candidates.

37. (1) If at the expiration of the time appointed for the election the number of duly nominated candidates for any municipality or ward as the case may be, does not exceed the number of councillors or members to be elected for such municipality or ward the returning officer shall forthwith declare such candidate or candidates to be elected and shall report such election to the Commissioner for Local Government who shall cause the election to be published in the Gazette.

(2) If the number of duly nominated candidates exceeds the number of councillors or members to be elected as aforesaid, the returning officer shall forthwith adjourn the election for the purpose of taking a poll, and shall report to the Commissioner for Local Government the names of the candidates as described in their nomination papers. Upon receipt of such report the Commissioner for Local Government shall cause to be published in the Gazette and in one or more newspapers if any circulating in the municipality, and to be posted at such places and places as he shall think fit within the ward or wards in which a poll is to be taken a notice specifying:

(a) the ward or wards in which a poll will be taken;

(b) the date on which the poll will be taken, which shall not be less than fourteen days from the date of the publication of the notice;

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

(d) the places at which a poll will be taken and the position of the municipality or ward, as the case may be, allotted to each polling station.

38. (1) After an election has been adjourned for the purpose of taking a poll, one of the candidates nominated shall die before the poll has commenced, the Commissioner for Local Government shall, upon being satisfied of the fact of such death, countermand notice of the poll, and in such case all the proceedings with reference to the election shall be commenced afresh:

Provided that no fresh nomination shall be necessary in the case of a candidate who stood nominated at the time of the countermand of the poll.

39. (1) A registered voter shall be entitled to one vote in every ward in respect of which his or her name appears upon the voters' rolls, but no voter shall have more than one vote in any ward.

Provision as to voting.

(2) Every voter shall vote at the polling station appointed for the ward or polling district, as the case may be, in respect of which his or her name appears upon the voters' rolls and at no other place.

40. The Governor may from time to time make rules for the purpose of carrying out any of the following purposes:

Power to make rules.

(a) for regulating the procedure in regard to the preparation of voters' rolls and for the making and disposing of claims and objections;

(b) for regulating the procedure in regard to the taking of polls at contested elections under this Ordinance;

(c) for prescribing such forms as he may think necessary to be used in connection with the matters dealt with in this Part of this Ordinance and any rules made thereunder;

(d) generally for the better carrying out of the provisions of this Part of this Ordinance.

41. Section 20 of the Legislative Council Ordinance shall apply *mutatis mutandis* to any election held under the provisions of this Ordinance.

Final provisions relating to elections.

PART III.

APPOINTMENT OF OFFICERS OF MUNICIPAL COUNCILS AND MUNICIPAL BOARDS.

42. (1) In every municipality established under the jurisdiction of a Municipal Council there shall be elected at the first meeting of the Council, and thereafter at the first meeting of the Council held after every annual election of councillors, one councillor to be Mayor and another councillor to be Deputy Mayor, and such Mayor and Deputy Mayor shall hold office until their successors be appointed as hereinbefore provided.

Mayor and Deputy Mayor of Municipal Councils.

(2) On any election of Mayor or Deputy Mayor the outgoing Mayor shall preside: Provided that at the first meeting of the Council after its constitution, and subsequently if the office of the outgoing Mayor has been vacated by reason of the expiry of his period of office as councillor or from any other cause, the councillors present shall elect a chairman from amongst themselves to preside for the purposes of such election: Provided further, that the chairman of the meeting shall have a deliberative vote only.

(3) In the event of the office of Mayor or Deputy Mayor becoming vacant from any cause whatsoever during the term of office of such Mayor or Deputy Mayor, a successor shall, at the next meeting but one of the Council after such vacancy, be chosen by the councillors from amongst themselves, and the councillor so chosen shall forthwith enter upon his office and shall serve as Mayor or Deputy Mayor, as the case may be, for the remainder of the period for which the Mayor or Deputy Mayor had been elected.

(4) A retiring Mayor or Deputy Mayor may be re-elected to the office which he is vacating.

(5) The Deputy Mayor shall, whenever it shall be necessary owing to the death, resignation, absence, illness or incapacity of the Mayor, be deemed to have authority to exercise all the powers and discharge all the duties vested in and imposed upon the Mayor under and by virtue of this Ordinance.

Allowance to Mayor

(1) A Municipal Council may vote out of the revenue of the Council as a personal allowance to the Mayor such sum as it may consider sufficient having regard to the position. The amount of such allowance shall be fixed at the commencement of the Mayor's term of office and shall not be altered during the said term. The expenditure of such allowance shall not be subject to any audit, but the Mayor's signature therefor shall be sufficient.

(2) Whenever the duties of the office of Mayor are performed, for any continuous period not being less than one month, by the Deputy Mayor under any of the circumstances mentioned in sub-section (5) of the last preceding section the allowance under this section shall be paid for such period to the Deputy Mayor.

Chairman and Deputy Chairman of Municipal Councils

42. (1) In every municipality constituted under the jurisdiction of a Municipal Board the officer of Government discharging the functions of Resident Commissioner shall be Chairman.

(2) There shall be elected annually, at the first meeting of the Municipal Board after every annual election of members, one member of the Board who shall be Deputy Chairman, and such Deputy Chairman shall hold office until his successor is appointed as hereinbefore provided.

(3) In the event of the office of Deputy Chairman becoming vacant from any cause whatsoever during the term of office of such Deputy Chairman, a successor shall, at the next meeting but one of the Board after such vacancy, be chosen by the members from amongst themselves, and the member so chosen shall forthwith enter upon his office and shall serve as Deputy Chairman for the remainder of the period for which the Deputy Chairman had been elected.

(4) A retiring Deputy Chairman may be re-elected.

(5) The Deputy Chairman shall, whenever it shall be necessary owing to the death, resignation, absence, illness or incapacity of the Chairman, be deemed to have authority to exercise all the powers and discharge all the duties vested in and imposed upon the Chairman under and by virtue of this Ordinance.

45. (1) Every Municipal Council and every Municipal Board constituted by or under this Ordinance may from time to time, subject to the approval of the Governor, appoint fit and proper persons to be, respectively, Town Clerk, Town Treasurer, Town Engineer, and Medical Officer of Health, and may pay to such officers such salaries and allowances as the Council or Board, as the case may be, may, subject to the approval of the Governor, determine. Every Council and Board may also appoint such other officers as may be considered necessary and may pay to such officers such salaries and allowances as the Council or Board, as the case may be, may determine.

Appointment of Town Clerk and other officers.

(2) Subject to the provisions of any law or by-law relating to retirement on grounds of ill-health or on reaching the prescribed age, unless it shall be otherwise stipulated in the contract with or in the terms of appointment of an officer appointed under this section, the Council or Board, as the case may be, may at any time terminate the appointment of such officer upon not less than one month's notice or, in the case of misconduct, immediately without notice.

Provided that no officer holding the post of Town Clerk, Town Treasurer, Town Engineer, or Medical Officer of Health shall be removed from office unless and until such removal has been decided upon by a majority of the councillors or members present at a meeting specifically convened for the purpose, and unless the number of councillors or members voting in the majority is not less than a majority of the whole Council or Board, and unless and until the Governor has notified to the Council or Board, as the case may be, his approval of the removal of such officer.

Provided, however, that the Council or Board may suspend any such officer from the duties and emoluments of his office for incapacity, neglect or misconduct pending the sanction of the Governor to his removal, and in the event of such sanction being granted such officer shall be deemed to have been removed from his office as from the date of such suspension.

(3) No person may be appointed to any office under this section who is a member of the Council or Board, as the case may be, or who has been a member thereof within the preceding six months.

46. The Governor may from time to time make rules for regulating the procedure in regard to the appointment by Municipal Councils and Municipal Boards of Town Clerks, Town Treasurers, Town Engineers, Medical Officers of Health, and sanitary inspectors, and for prescribing the qualifications, conditions of appointment, tenure of office, salaries and duties of all such officers.

Power of the Governor to make rules.

PART IV.

MEETINGS AND PROCEEDINGS OF MUNICIPAL COUNCILS AND MUNICIPAL BOARDS.

47. The provisions of this Part of this Ordinance shall apply to every Municipal Council and every Municipal Board constituted by or under this Ordinance: Provided that the terms "Council," "Mayor," "Deputy Mayor," and "councillors" shall, in the case of a municipality under the jurisdiction of a Municipal Board, be deemed to refer, respectively, to the Board, and to the Chairman, Deputy Chairman, and members of such Board.

Application and Interpretation

48. The Council shall hold an ordinary meeting for the despatch of business on such days and at such hours as the Council may from time to time appoint, but not less often than once in every month.

49. The Mayor may at any time and shall, at the request in writing of not less than one-third of the councillors, call a special meeting of the Council, and the day fixed for such meeting shall be within fourteen days of the presentation of such request. The notes of any special meeting shall specify the object of the meeting, and no other subjects than those specified in such notice shall be discussed at such meeting.

50. Notice of the time and place of every meeting of the Council shall be served on every councillor either personally or by leaving the same at his usual place of residence or at his business address not less than twenty-four hours before such meeting. Such notice shall be signed by the Mayor or by the Town Clerk.

Provided that the accidental omission to serve such notice on any councillor shall not affect the validity of any meeting.

51. Every meeting of the Council shall be open to the public and to the press:

Provided that this section shall not apply to any committee of the Council nor to a committee of the whole Council.

52. Save as is otherwise specially provided by this Ordinance, all acts, matters and things authorized or required by this Ordinance to be done by the Council, and all questions that may come before it, shall be done and decided by the majority of the councillors present at any meeting at which are present not less than one-half of the councillors or such larger proportion thereof as the Council may from time to time fix.

53. (1) At every meeting of the Council the Mayor if present, and in his absence the Deputy Mayor, shall preside. In the event of the absence from any meeting of both the Mayor and the Deputy Mayor the councillors present shall elect a chairman from amongst themselves to preside at such meeting.

(2) In the case of equality of votes the chairman of the meeting shall have a second or casting vote.

54. (1) Any councillor who, without having first obtained leave from the Council, absents himself from three consecutive ordinary meetings of the Council shall become disqualified from continuing to be a councillor, and the Town Clerk shall, at the next ordinary meeting of the Council after any such continued absence, report the same, and the Mayor shall thereupon declare the seat of such councillor vacant.

(2) Where any councillor leaves the Colony for a period not exceeding six months the Council may, with the consent of the Governor, accept a fit and proper person to discharge the duties of such councillor during his absence from the Colony. Provided that if any councillor is absent from the Colony for a period exceeding six months his seat shall become vacant.

55. Minutes of the proceedings of every meeting of the Council and of any committee thereof shall be regularly entered in books kept for that purpose, and such minutes shall be confirmed at the same or the next ordinary meeting. Such minutes when signed by a councillor describing himself or appearing to be chairman of the meeting at which the minutes are confirmed shall, in the absence of proof of error, be deemed to be a correct record of the proceedings of the meeting of which they purport to be the minutes.

56. Whenever the minutes of the proceedings have been recorded and confirmed, such meeting shall, until the contrary is proved, be deemed to have been duly convened and held, and all the councillors present at such meeting shall be deemed to have been duly qualified; and in the case of proceedings so recorded of a committee the committee shall, until the contrary is proved, be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minutes.

57. The minutes of the proceedings of the Council shall at all reasonable times be open to the inspection of any ratepayer of the municipality and any such ratepayer may obtain a copy thereof or an extract therefrom on payment of such fee (if any) as may be prescribed by the Council.

58. The councillors present at any meeting may from time to time adjourn such meeting and if at any meeting a sufficient number of councillors be not present to exercise the powers vested in the Council the councillors present or there be no councillor present the Town Clerk shall adjourn the meeting and may appoint for the adjourned meeting such day and hour as may be thought convenient.

59. (1) The Council may from time to time appoint out of its own body such and so many committees, either of a general or special nature, consisting of such number of councillors as the Council may think fit, for the purpose of examining and reporting upon any matter or performing any act which in the judgment of the Council would be more conveniently performed by means of a committee and, subject to the provisions of the next succeeding section, may delegate to any committee such powers (other than power to raise money by rate or loan or any other power as to the exercise of which special provision is made in this Ordinance) as it may think fit, and may fix the quorum of any such committee. The Mayor shall be *ex officio* member of every such committee.

(2) In no case shall any act of any committee be binding on the Council until submitted to and approved by the Council, except in cases where the Council has, by resolution, authorized a committee to manage, regulate, or conclude any matter or matters.

(3) Each committee shall elect its own chairman and may also elect a deputy chairman.

(4) Every committee appointed by the Council may be dissolved at any time by resolution of the Council, and may be dissolved at any time by the vote of the majority of the whole Council.

(5) Every councillor shall be elected by the Council to serve on at least one committee.

Minutes to be kept and signed.

Meetings to be deemed to be duly held.

Minutes to be open to inspection.

Adjournment of meetings.

Appointment of committees.

Appointment
and functions of
Finance
Committee.

30. (1) The Council shall from time to time appoint a Finance Committee for regulating and controlling the finances of the Council.

(2) No expenditure shall be incurred unless provision has been made therefor on a detailed estimate submitted by the Finance Committee and approved by the Council, and every payment from the revenues of the Council shall be made by the Finance Committee which shall submit for information at each ordinary meeting of the Council a schedule of all payments made.

Procedure of
meetings of
committees.

31. (1) Every committee appointed by the Council may meet from time to time and may adjourn from place to place as it may think proper; but no business shall be transacted at any meeting of the committee unless the quorum of members (if any) fixed by the Council, or if no quorum be fixed two members, be present.

(2) At all meetings of the committee the chairman if present, and in his absence the deputy chairman, shall preside. In the event of the absence from any meeting of both the chairman and deputy chairman the members present shall elect a chairman from amongst themselves to preside at such meeting. In the case of equality of votes the chairman of the meeting shall have a second or casting vote.

Contracts for
erection of
works or supply
of goods.

32. (1) Except in the cases mentioned in sub-section (2) of this section, before any contract for the execution of any work or the supply of any goods to the value of seventy-five pounds or upwards is entered into by the Council, fourteen days' clear notice at the least shall be given in the Gazette and in one newspaper circulating in the municipality, or, if there be no such newspaper, then by affixing a notice outside the principal door of the municipal offices and in two or more other conspicuous places within the municipality, expressing the purpose of such contract and inviting any person willing to undertake the same to submit tenders therefor to the Council. The Council shall not consider such tenders or conclude the contract until full and similar particulars have been supplied to every person applying to the Town Clerk therefor within thirteen days after the said notice was first published or affixed.

(2) The Council or committee thereof duly authorised shall accept the tenders which, having regard to all the circumstances, appear to the Council or committee to be most advantageous, and may take security for the due and faithful performance of every such contract, or the Council or committee may decline to accept any such tenders.

(3) In cases of emergency or where the delay involved by calling for tenders in the manner hereinbefore prescribed would cause loss to the Council, the Finance Committee may authorise the making of contracts or purchases to the value of seventy-five pounds or upwards without publication of the notice prescribed by sub-section (1). Provided that in all such cases the Finance Committee shall prescribe the method of calling for tenders and the period within which such tenders shall be submitted, and no such tender shall be accepted without the approval of the Finance Committee; Provided, further, that in every such case the Finance Committee shall submit to the Council at its next succeeding ordinary meeting a report as to the reasons for making such contract or purchase without

calling for public tenders in the manner prescribed by sub-section (1) and such report shall include a schedule giving full particulars of all such tenders received.

(4) Nothing in this section shall apply to any contract for the purchase by the Council of produce or other perishable goods bought in a public market or to any purchase entered into by the Council as the result of bidding at a public auction.

33. (1) The Mayor may from time to time if he shall so direct, and upon receipt of a requisition signed by such number of enrolled voters as may be fixed by resolution of the Council or by by-law, summon a public meeting of the inhabitants of the municipality for the discussion of any matter of public interest which may be specified in the requisition: Provided that no such meeting shall be summoned for the purpose of promoting, opposing or discussing the election of any person as a councillor or as a member of the Legislative Council.

34. All acts of the Council or of any person acting as Mayor, Deputy Mayor, councillor, Town Clerk or any other municipal officer, as the case may be, shall, notwithstanding that it be discovered that there was some defect in the election or appointment of any such person or that he was disqualified, be as valid and effectual as if such person had been duly elected or appointed and qualified.

35. (1) Every order, notice or other document requiring authentication by the Council shall be deemed to be sufficiently authenticated without the common seal of the municipality if signed by two councillors or by the Town Clerk or by any other officer of the Council duly authorised thereto by resolution or by-law of the Council.

(2) Every contract and every instrument and document which the Council is lawfully empowered to execute shall be deemed to be duly executed by or on behalf of the Council if signed by the Mayor or Deputy Mayor or by the Town Clerk or by any one or more councillors duly authorised thereto by any resolution or by-law of the Council.

36. No matter or thing done or omitted and no contract entered into by the Council, and no matter or thing done or omitted by any councillor or officer or servant of the Council or other person acting under the direction of the Council, shall, if the matter or thing was done or omitted in good faith and in pursuance of or of any by-law in force in the municipality, subject any such person personally to any action, liability, claim or demand whatsoever, and any expense incurred by the Council or any such person as aforesaid shall be paid by the Council out of its revenues.

Provided that nothing in this section shall exempt any such councillor, officer or servant or other person aforesaid from liability to be surcharged by the inspector under section 124 of this Ordinance.

Constitution of Councils and Officers of Municipal Councils.

67. (3) No councillor shall be disqualified by his office from entering into any contract with the Council, nor shall any such contract entered into by or on behalf of the Council in which any councillor is in any way directly or indirectly interested be on account of such interest avoided or set aside, nor shall any councillor so contracting or being so interested be liable to account to the Council for any profit realised by any such contract by reason of such councillor holding that office, provided that the nature and extent of his interest is disclosed by him so that such disclosure is duly recorded in the minutes of the Council prior to or at the meeting of the Council in which the contract is determined on, if the interest then exists, or in any other case at the first meeting of the Council after the acquisition of his interest: Provided, however, that it shall not be necessary for any such disclosure to be made—

(a) by any councillor in the case of any contract or bargain which the Council may expressly authorise to be entered into with such councillor in his own name; or

(b) by any councillor who shall have notified in writing to the Town Clerk subsequent to his last election as councillor that he has any interest in any firm or partnership in the case of any contract or bargain which the Council may expressly authorise to be entered into with such firm or partnership.

(2) No councillor shall be present at the discussion upon any matter in or before the Council or a committee thereof in which he has directly by himself or his partners any pecuniary interest. Provided, however, that no councillor shall be prohibited from being present or taking part in any discussion before the Council or a committee thereof relating

(a) any scheme for the imposition of rates; or

(b) the tariff charges for or the regulations and conditions generally applicable to the supply by the Council of anything, or the rendering by the Council of any service whether in the whole municipality or any portion thereof.

(3) No councillor shall by himself or his partner or agent act as an advocate against the Council.

(4) No councillor shall by himself or his partner or agent act as an advocate or representative of any other person—

(a) before any Valuation Court appointed by the Council under the Local Government (Rating) Ordinance, 1928; or

(b) before any committee of the Council appointed to consider or deal with applications for any licences or certificate which the Council has power to grant or issue.

(5) Any councillor who contravenes the provisions of this section shall be liable on conviction to a fine not exceeding one hundred pounds and in default of payment to imprisonment of either description for a period not exceeding six months, and shall ipso facto become disqualified from continuing to be a councillor and shall account to the Council for any profit which may accrue to him in respect of such contract or matter.

(6) Any councillor who is disqualified under the provisions of this section shall not be capable for a period of three years, of being elected a councillor for any municipality.

68. (1) No officer or servant of the Council shall in any wise be concerned or interested in any bargain, contract or arrangement whatsoever made by or with the Council.

(2) If any officer or servant is so concerned or interested, or under cover of his office or employment exacts or accepts any promise, fee or reward whatsoever other than his proper salary, wages and allowances, he shall be incapable of afterwards holding or continuing in any office or employment under this Ordinance and shall be liable on conviction to a fine not exceeding one hundred pounds and in default of payment to imprisonment of either description for a period not exceeding six months.

(3) Any profits, fee or reward which may have accrued to such officer or servant, or which may accrue to him by reason of such bargain, contract or arrangement, may be recovered by the Council before any court of competent jurisdiction.

PART V.

POWERS AND DUTIES OF MUNICIPAL COUNCILS AND MUNICIPAL BOARDS.

69. The provisions of this Part of this Ordinance shall apply to every Municipal Council and to the Mumbai Municipal Board and, subject to the provisions of section 11 of this Ordinance, to every other Municipal Board constituted by or under this Ordinance.

Provided that the terms "Council" and "Municipal Board" in the case of a municipality under the jurisdiction of a Municipal Board be deemed to refer, respectively, to the Board and to the Chairman of the Board.

70. (1) The Council shall have the general control and care of all public roads, streets, bridges, squares and all other open public places and of all gardens, parks, and other enclosed spaces within the municipality which have been or shall be at any time set apart and appropriated by proper authority for the use of the public or to which the inhabitants of the municipality shall at any time have or acquire a common right, and the same shall be vested in the Council in trust to keep the same for the use and benefit of the inhabitants.

(2) The Council may make, construct, alter, repair, and if necessary temporarily close all roads, streets, bridges, squares, ferries, sewers, drains and culverts vested in the Council or under its control, and may make new roads, streets, bridges, squares, open spaces, ferries, dams, sewers, drains and culverts within the municipality, and if it shall be necessary may carry any sewers, drains and pipes through and across any private property: Provided that compensation for any damage done shall be paid by the Council, and the amount of such compensation, if not mutually agreed upon, shall be settled by arbitration.

(3) The Council may, with the consent of the Governor, erect and maintain on any square or other open public place buildings for public purposes, and may set apart any such square or other open public place or any portion thereof for any purpose which the Council may from time to time think fit.

71. The Council may close or divert, or alter, any road, street, thoroughfare, square or any garden, park or other open public place and any garden, park or other enclosed space vested in the Council under the last preceding section. Provided that the Council shall, in all exercises of such powers, be subject to the following conditions and restraints:

- (1) Before the Council shall sanction any such closing or diversion or alteration, not less than fourteen days notice shall be given at a meeting of the Council to move therefor.
- (2) Before any such closing or diversion or alteration is carried out, the Council shall prepare a plan showing the nature thereof, and shall give notice of the proposed work, not less than one month before its commencement, in the Gazette and in one or more newspapers (if any), circulating in the municipality, as well as by a sufficient number of conspicuous placards posted on or near the road, street, thoroughfare, square or other open public place, garden, park or other enclosed space which it is proposed to close or divert or alter. Such notice shall set forth a place where the said plan shall be open for inspection at all reasonable hours. The Council shall further serve a copy of such notice on the owners or reputed owners, lessees or reputed lessees, and occupiers of all property abutting upon the said road, street, thoroughfare, square or other open public place, garden, park or other enclosed space, and alteration or diversion thereof, whose addresses can after reasonable enquiry be ascertained, and if the proposed road, street, thoroughfare, square or other open public place, garden, park or other enclosed space, or alteration or diversion thereof, shall affect land not vested in the municipality, shall also serve a copy of such notice on the Commissioner of Lands.
- (3) It shall be competent for the Commissioner of Lands, or any such owner, lessee or occupier, or any other person aggrieved by such closing or diversion or alteration, to serve upon the Council within the period of one month aforesaid a claim in writing for compensation in consequence of such closing or diversion or alteration, and the Council shall make compensation to the Commissioner of Lands on behalf of Government or to such person respectively, the amount of such compensation, in default of agreement, being settled by arbitration. Provided that in assessing the amount of compensation payable hereunder the benefit or advantage derived or to be derived by Government or by such person, as the case may be, shall be taken into account.
- (4) If the Commissioner of Lands or any person interested as owner, lessee or occupier in any property abutting on the road, street, thoroughfare, square or other open public place, garden, park or other enclosed space which it is proposed to close or divert or alter, or any other person aggrieved by such closing or diversion or alteration, shall at any time within the period of one month aforesaid serve written notice on the Council of any objection to such closing or diversion or alteration, then, unless

such objection shall be withdrawn, such closing or diversion or alteration shall not be carried out without the sanction of the Governor.

- (5) After the service of any such objection the Governor may, on the application of the Council, appoint one or more persons to make an inquiry into the proposed closing or diversion or alteration and the objection thereto, and to report thereon; and on receiving the report of such person or persons the Governor may make an order disallowing the proposed closing or diversion or alteration, or allowing it with such modifications (if any) as he may deem necessary.
- (6) If the closing or diversion or alteration be allowed by the Governor, or if there be no objection to it under sub-section (4) of this section and the Council proceeds to carry out such closing or diversion or alteration, the Council shall, on completion of the work, give notice thereof to the Governor; who shall, after due inquiry as to whether the closing or diversion or alteration has been properly effected in accordance with this section, notify the Surveyor General and the Registrar of Titles or other registration officer that the closing or diversion or alteration has been properly effected under this Ordinance, and the Surveyor General shall, on being supplied by the Council with a plan framed by a registered land surveyor showing all details of the closing or diversion or alteration, cause such amendments as may be necessary to be made in the general plan of the municipality, and the Registrar of Titles or other registration officer shall thereupon make corresponding entries in his registers.

72. (1) The Council may from time to time cause the houses, buildings or erections fronting upon any street or other public place to be marked with such numbers as it may think fit, and may cause the name by which any street or other public place is to be known to be put up and painted on a conspicuous part of any house, building, fence, wall or place fronting thereon, and may further at its discretion change or vary any such number or name, whether or not such number or name existed before the commencement of this Ordinance or not.

Naming and numbering of streets, etc.

(2) Any person who destroys, pulls down, or defaces any such number or name, or, without the permission of the Council, puts up any number or name different to the number or name put up by the Council, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten pounds.

73. (1) Subject to the approval of the Governor, the Council shall have power to acquire land compulsorily, whether within or without the municipality, for municipal purposes; and such land, when so acquired, shall be vested in the Council.

Power to acquire land compulsorily for municipal purposes.

(2) The provisions of the Indian Land Acquisition Act, 1894, or any Ordinance amending, or replacing the same for the time being in force, shall apply to the acquisition of any land under this section.

Power to enter into contracts.

74. All Subject to the provisions of section 62 of this Ordinance the Council may enter into contracts for the purpose of any work or service which it is itself, by or under the provisions of this Ordinance, empowered to undertake or carry out.

Provided that the Council shall not exempt the party or parties with whom it is contracting from the operation of any by-laws, but shall in the contract stipulate that such party or parties shall, within the municipality, be subject, in the carrying out of the contract, to all by-laws for the time being in force.

(2) All contracts lawfully made under the provisions of this section shall be valid and binding on the Council and its successors and all other parties thereto, their heirs, successors or legal representatives, as the case may be.

Power to establish pounds.

75. The Council may establish pounds, and may from time to time make by-laws for all or any of the following purposes:—

- (1) For the management of pounds;
- (2) For fixing the charges payable by owners of impounded animals;
- (3) As to the conditions under which impounded animals may be sold;
- (4) As to the transfer of the property in such animals on such sale;
- (5) For regulating the entry of the police without warrant into pounds.

Power to lay out native locations.

76. The Council may, subject to the approval of the Governor, lay out on lands under its control such locations for natives as may be deemed desirable and erect suitable buildings thereon, and may, subject to the like approval, compel all natives residing in the municipality, except such natives as are employed in domestic service and are lodged on the premises of their employers and such natives as may be exempted by the Governor to reside within such locations.

Duty of Council to provide for burial of paupers.

77. (1) It shall be the duty of the Council to provide for the burial of all destitute persons who die within the municipality, other than those who—

- (a) die in hospital (unless they had lived for at least three months in the municipality prior to their admission to hospital, in which case the Council shall be responsible for the burial and all charges in connection therewith); or
 - (b) die in gaol; or
 - (c) had not lived in the municipality for a period of three months prior to their death,
- and the Council is hereby authorised and empowered to incur any expenditure necessary therefor.

(2) In the case of destitute persons who die in hospital, but who had lived within the area of jurisdiction of any other local authority for a period of at least three months prior to their admission to hospital, such other local authority shall be responsible for the payment of all charges in connection with the burial of such destitute persons.

(3) If any native brought into the municipality by any person carrying on the business of recruiting native labour shall die in the municipality within one month after his arrival, the Council may recover from such person or his employer or principal such burial charges as may be fixed by by-laws with regard to cemeteries.

78. The Council shall have power to do all or any of the following things, namely:—

(1) To construct, alter, repair and keep clean the roads, streets, bridges, squares and other open spaces vested in the Council under this Ordinance;

(2) To establish, maintain, and carry out such sanitary services for the removal and destruction of, or otherwise dealing with, night soil, slops, rubbish, carcasses of dead animals, and all kinds of refuse and effluent;

(3) To conduct funerals and to establish and maintain cemeteries, mortuaries, and crematoria within or without the municipality;

(4) To make provision for the return of destitute natives to their homes;

(5) To erect, maintain and keep in repair such offices and buildings as may be required for municipal purposes;

(6) To plant, trim or remove trees in or on any public place;

(7) To arrange for the lighting of public places and for the erection and maintenance of lamps for the purpose;

(8) (a) To establish, maintain and control recreation grounds on municipal land and on parks, squares and open spaces vested in the Council;

(b) To establish, maintain and control, in connection with recreation grounds so established, aquatics pavilions, piers, dressing-rooms, lavatories, and such other buildings, structures or conveniences of any nature and for any purpose as the Council may consider to be necessary or convenient;

(c) To set apart any portion of any recreation ground so established as may be fixed by the Council and described in a notice set up in some conspicuous place on such recreation ground for the purpose of any particular game or recreation; and to exclude the public from the portion so set apart while it is in actual use for that purpose;

(d) To provide any apparatus for games or recreation in respect of any such recreation ground, or to permit any person, club or body to provide any such apparatus on such terms as the Council may decide;

(e) To establish, maintain and control refreshment rooms, cafés and restaurants in any such recreation ground;

(f) To let any such recreation ground and/or any building, structure or apparatus established or provided in connection therewith to any person or club or other body of persons, and, by resolution of the Council, to authorise such person, club or body to make charges in connection therewith;

General powers of the Council.

Making and repairing roads, etc.

Sanitary services.

Funerals, cemeteries, mortuaries, etc.

Destitute natives.

Municipal buildings.

Lighting public places.

Recreation grounds.

(9) To establish, erect, maintain and control markets and market buildings, and to let portions of such buildings and stalls therein;

(10) To make grants of money towards the establishment and maintenance of the institutions hereinafter mentioned, not being of a private character, that is to say, hospitals, libraries, art galleries, museums, musical or scientific institutions, asylums for the aged, destitute or infirm, homes for destitute orphans;

(11) To sell, let or otherwise dispose of any movable or immovable property of the Council:

Provided that—
(a) no sale or other alienation of immovable property shall take place without the consent of the Governor, who may require that the proposal of the Council to alienate such property shall be published in four successive issues of the Gazette and of one or more newspapers (if any) circulating in the municipality; and

(b) all moneys received by the Council from the sale or other alienation of immovable property shall be appropriated to the redemption and extinction of existing debt incurred for capital purposes: Provided however that where this provision has been made for the redemption and extinction of any such debt, or where no such debt exists, the Governor may authorise the Council to apply all moneys so received to such capital expenditure as may be approved by him: Provided further that nothing in this paragraph shall apply to moneys received in respect of rentals under leases granted by the Council;

(12) (a) Subject to the consent of the Governor, to lay out building plots upon or otherwise sub-divide any land the property of the Council for the purpose of housing schemes for inhabitants of the municipality or for the purpose of factory, industrial, business or workshop sites; and

(b) Subject to the provisions of sub-section (11), to sell, let or otherwise dispose of any such plots or subdivisions of land and the buildings thereon;

(13) Subject to the consent of the Governor, to acquire by voluntary purchase or to hire any land, way, leave, water right or any other property or servitude within or without the municipality which may be necessary for the purposes of this Ordinance: Provided that the consent of the Governor shall not be required where no consideration or merely nominal consideration passes in respect of such acquisition or hiring;

(14) Subject to the consent of the Governor, to sell, let or otherwise dispose of any land the property of the Council to any person for the purpose of carrying on thereon any work or trade of an offensive nature which the Council is empowered to license;

(15) To establish, erect and maintain dipping tanks;

(16) To establish, erect and maintain public lavatories, closets and urinals, either above or below ground;

(17) Subject to the consent of the Governor—

(a) to erect and maintain dwelling-houses with their appurtenant out-buildings on plots or sub-divisions of land referred to in sub-section (12) hereof;

(b) to convert buildings into dwelling-houses and to alter, enlarge, repair and improve the same;

(c) to make advances of money on the security of immovable property for the purpose of enabling persons resident in the municipality (including officers and servants of the Council) to acquire land and/or to erect dwelling-houses, and to recover such advances with interest thereon by instalments or otherwise as the Council may in its discretion arrange with any person to whom an advance is made: Provided that dwelling-houses proposed to be built by the Council with borrowed money shall be built by contract after tenders have been invited;

(18) To pay the medical or funeral expenses of any person employed by the Council who suffers injury or dies as the result of an accident occurring in the course of his employment or as the result of illness contracted in consequence of such employment;

(19) (a) Subject to the provisions of any by-laws made under sub-section (10) of section 95 of this Ordinance to establish, control, manage, maintain and contribute to any pension, provident or benevolent fund intended for the benefit of the officers and servants of the Council, and to grant pensions or gratuities from any such fund to such officers or servants on their retirement from the service of the Council and to dependents on the death of such officers or servants;

(b) Subject to the consent of the Governor, in cases where no pension, provident or benevolent fund has been established under this sub-section, or in cases where no benefits accrue from any fund so established, to grant from the revenues of the Council pensions or gratuities to officers or servants on their retirement from the service of the Council and to dependents of deceased officers and servants of the Council;

(20) To establish and maintain camping, grazing, and outspan grounds, whether within or without the municipality;

(21) To establish, erect and maintain magazines for the storage of explosives and dangerous articles, whether within or without the municipality;

(22) To lay out and adorn any square or open space the property of the Council by any architectural scheme of ornamentation, including the erection of statues, fountains or other structures;

(23) To establish, erect and maintain public weighing machines;

(24) To establish, erect, maintain and control slaughter-houses, whether within or without the municipality;

Markets

Grants

Alienation of property of Council

Land for housing and industrial sites

Land for offensive trades

Dipping tanks, lavatories, etc.

Housing

Medical expenses of employees

Establishment of pension funds

Camping grounds, etc.

Powder magazines

Adornment of squares

Public weighing machines

Slaughter-houses

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- Fire brigades and ambulances
- Libraries, etc.
- Bands.
- Removal of trees, etc.
- By-products
- Legislation
- Public health and hospitals
- Public monuments
- Cold storage works, etc.
- Quarantine services.
- (25) To establish and maintain one or more fire brigades and ambulances.
- (26) To establish, acquire, erect, construct, maintain, assist, promote and control—
- public libraries, art galleries and museums;
 - botanical and biological gardens;
 - public baths and wash-houses.
- Provided that the Council may decide that the general management, regulation and control of institutions mentioned in paragraphs (a) and (b) established by the Council shall be vested in and exercised by such committee as the Council may from time to time appoint, the members whereof need not be members of the Council.
- (27) To establish, maintain, control and contribute to 15 bands for musical performances in public places and at municipal functions, and generally, to provide musical entertainment in such places and at such functions;
- (28) To require the owner of any premises to do any of 20 the following acts:—
- to remove, lower or trim to the satisfaction of the Council any trees, shrub or hedge overhanging or interfering in any way with the traffic on any road or street or with any wires or works of the Council;
 - to remove any dilapidated fence or structure abutting upon any public place;
 - to sell all by-products resulting from the carrying on of any works or undertakings which the Council is authorised to carry on;
 - to promote and oppose legislation in the interests of the municipality;
- (31) (a) To safeguard and promote the public health, to take all necessary and reasonably practicable measures for preventing the occurrence of, or for dealing with any outbreak or prevalence of, any infectious, communicable or preventable disease, for maintaining its district in clean and sanitary condition, and for preventing the occurrence of, or for remedying or causing to be remedied, any nuisance or condition likely to be injurious or dangerous to health;
- (b) Subject to the consent of the Governor, to establish, erect, equip and maintain, either within or without the municipality, hospitals, whether permanent or temporary, for the reception of patients, and to provide treatment free of charge for indigent patients who are inhabitants of the municipality;
- (32) To establish, erect and maintain public monuments 30 and to make grants of money towards the establishment or maintenance thereof;
- (33) To establish, erect, equip and maintain cold storage works, depots for the inspection of milk and dead meat, and to make and sell ice. 35
- (34) To establish, acquire, maintain and carry on within the municipality a service of motor omnibuses or other vehicles, drawn or propelled by animal, mechanical or electrical power for the carriage of

passengers and parcels and, in connection with any such service, to enter into agreements with any person or corporation for the establishment, acquisition, construction, laying down, equipment, maintenance, working and guaranteeing of, the capital cost and interest on the capital cost thereof, and to exercise such powers either alone or in conjunction with other persons, corporations or authorities:

Provided that—

(a) this sub-section shall not apply to tramways;

(b) the Council may exercise such powers in any area beyond the municipality with the consent of the local authority, if any, of such area, or if there be no local authority in such area, their with the consent of the Governor;

- (35) To acquire, equip and maintain boats and boating establishments; Boats.
- (36) To take a census of the inhabitants of the municipality and to contribute to the cost of any such census when taken by any other authority; Taking of census.
- (37) To enter into any contract with any other local authority or with any corporation, company or person to secure or further the carrying on outside the municipality of any work or undertaking which the Council is authorised to carry on; Contracts with other local authorities.
- (38) To establish, acquire, erect, maintain and carry on dhobie quarters and laundries; Sundries.
- (39) To establish, erect, maintain and carry on disinfecting stations; Disinfecting stations.
- (40) (a) At the request of the owner of any land or premises situate within the municipality, to construct in such manner as the Council may think fit, either by its own servants or through contractors, a footway along the side of any street abutting upon the land or premises of such owner, and to recover from such owner the whole or any portion of the expenses incurred in such work, including a reasonable charge for supervision, and, if the work is undertaken by the Council without the interposition of a contractor, to recover charges for the use of tools and plant;
- (b) To advance to the owner of any land or premises the amount of any expenses incurred or to be incurred by him in the construction of any such footway;
- The provisions of sub-section (2) to (5) of section 94 shall, *mutatis mutandis*, apply to any advances made under this sub-section;
- (41) To advertise and give publicity to the attractions and advantages of the municipality and district; Advertising.
- (42) Subject to the consent of the Governor, to diversify, straighten, deepen and canalise the course of any stream or watercourse after giving notice and making compensation to any owner or occupier of land, and to any person entitled to any rights or servitudes attaching to land, abutting on such stream or watercourse; Canalisation of streams.

Provided that in awarding the amount of any compensation payable under this sub-section regard shall be had to the enhanced or improved value, immediate or prospective, which shall accrue to any such land by reason of the carrying out of the said purposes or any of them. The amount of such compensation shall, in default of agreement, be settled by arbitration;

Child welfare institutions

(43) To establish, erect, maintain and carry on or assist institutions or clinics for the care and welfare of newly-born infants, and to make provision for suitable instruction being imparted to expectant mothers and to mothers of such infants;

Aerodromes

(44) To establish, erect, maintain and carry on aerodromes;

Broadcasting stations

(45) To establish, erect, maintain and carry on wireless broadcasting stations and to enter into contracts for the hire of apparatus and for listening-in;

General

(46) To do all things necessary for carrying out all the purposes for and in regard to which the Council is empowered from time to time to make by-laws, and for carrying all such by-laws into effect;

Expenditure provided for

(47) To incur all expenditure necessary for the carrying out of any purpose of this Ordinance which the Council is authorised to carry out, or of any purpose not specially provided for in this Ordinance which the Governor may determine to be a purpose incidental to the exercise by the Council of its powers and duties under this Ordinance, including a reasonable amount for public entertainment and for travelling and personal expenses of councillors, officers and servants on the business of the Council at rates to be fixed by by-laws.

All charges under this section shall be regulated by by-law. Provided, however, that the Council may from time to time, with the consent of the Governor, impose, by resolution of the Council, charges in respect of any power conferred upon the Council by this section; and every such resolution shall take effect as from the date of its adoption by the Council. A copy of every such resolution shall be published in the Gazette.

Supply of Water and Electricity

Works for the supply of water

78. The Council may--
 (1) establish, acquire, construct, equip and carry on within or without the municipality, works for supplying the inhabitants thereof with water, and may make such charges and impose such conditions of service for the supply of water as may be fixed by by-law;
 (2) excavate, construct and lay down within the municipality, watercourses, water furrows, water pipes, conduits, sluices, drains, dams, reservoirs and other works for supplying, storing and leading water, and

close, alter or divert any of such works as may from time to time be necessary. Provided that if the Council closes or diverts any work for the supply of water and thereby deprives any owner of private property of a water supply to which his property has been hitherto by lawful right entitled, he may lodge an objection, and thereupon the Council shall not proceed with the closing or diversion without the prior consent of the Governor;

(3) whenever necessary, carry any water furrows through and across any private property subject to compensation being made by the Council for any damage done thereby, the amount of such compensation being determined, in default of agreement, by arbitration;

(4) make advances to the owner of any land of money or material for the purpose of enabling him to instal a water supply on his premises from municipal mains upon such conditions as the Council may determine. The provisions of sub-sections (2) to (5) of section 94 shall *mutatis mutandis* apply to any advances made under this sub-section.

80. In any municipality the Council of which carries on works for the supply of water to the inhabitants thereof no person shall construct any works for the supply of water to any premises without first obtaining permission in writing from the Council to construct such works.

Supply of water to private premises

Provided, however, that such permission shall be granted by the Council in all cases where the Council is not willing and able to give a proper and sufficient water supply to any premises at such price as may be fixed in its by-laws.

Provided, further, that nothing in this section shall prohibit the owner of any premises from constructing thereon any works for the supply of water to such premises.

81. (1) Subject to the provisions of the Electric Power Ordinance, the Council may establish, acquire, construct, equip and carry on, within or without the municipality, works for supplying the inhabitants thereof with light, heat and power, and may supply electricity for all purposes for which the same can be used to or in respect of any land, building or premises within the municipality and may make such charges and impose such conditions of supply as may be fixed by by-laws;

Works for the supply of light, heat and power (Cap. 185)

(2) Subject as aforesaid, any Council having established electric light works under the preceding sub-section may--

(a) supply electricity to any corporation, company or person carrying on business or residing outside the boundaries of the municipality;

(b) contract with the local authority of any adjoining area to supply electricity to such local authority upon such terms and conditions as may be mutually agreed upon;

(c) sell (including sale against payment by instalments) electric lines, fittings, apparatus and appliances to private consumers, and make advances of money to any owner of land within or without the municipality for the purpose of enabling or assisting him in the installation of plain wiring and electric fittings and articles in or at his premises. The provisions of

sub-sections (2) to (6) of section 94 shall *mutatis mutandis* apply to any advances made under this sub-section.

82. The Council may—

(1) do all things necessary for the laying of main and branch wires and lines of pipes to convey electric current or water respectively under or over public places, and connect such wires or pipes with any premises at the request of the owners or occupiers thereof;

(2) after giving thirty days' notice in writing to the owner, lessee or occupier of the intention to do so, carry mains, pipes, wires and cables through, across, under or over any private land, within or without the municipality, subject to compensation being made for any damage done thereby, the amount of such compensation being determined, in default of agreement, by arbitration; and the Council may cause such mains, pipes, wires and cables to be laid, altered, deepened, covered and maintained: Provided that if any owner, lessee or occupier of land outside the municipality shall object to such work the provisions of sub-sections (2) and (3) of section 91 shall *mutatis mutandis* apply.

83. All mains, pipes, wires or cables laid by or on behalf or at the expense of the Council or which are under its control shall be vested in the Council, and the Council, its officers and servants, shall at all times have a right of access to private property for the purpose of inspection, maintenance, alteration or repair of such mains, pipes, wires or cables, and may do all things necessary to uncover and expose such mains, pipes, wires and cables for the purpose of inspection, alteration or repair: Provided that the Council shall repair all damage caused by the exercise of the powers conferred by this section.

84. Any officer appointed thereto by the Council may at all reasonable times enter any premises to which electricity or water is or has been supplied by the Council, in order to inspect the pipes, wires, lines, meters, fittings, works and apparatus for the supply of electricity or water, or for the purpose of ascertaining the quantity of electricity or water consumed or supplied, or whenever the supply of electricity or water is no longer required, or whenever the Council is authorised to cut off the supply of electricity or water from such premises, or for the purpose of removing any pipes, wires, lines, meters, fittings, works or apparatus belonging to the Council: Provided that the Council shall repair all damage caused by the exercise of the powers conferred by this section.

85. If any person shall neglect to pay any charge for electricity or water or any other sums due to the Council in respect of the supply thereof, or in respect of any advances made under the provisions of sections 79 or 81, the Council may cut off such supply, and for that purpose may cut or disconnect any pipe, wire, line, or other work through which the electricity or water may be supplied, and may, until such charge or other sum together with the cost incurred by the Council in cutting off such supply of electricity or water, is fully paid, but no longer, discontinue the supply thereof to such person.

86. Any person who, by culpable negligence or with malicious intent, cuts or injures any pipe, wire, line or other work used for or in connection with the supply of electricity or water, and vested in the Council, shall be guilty of an offence and shall be liable upon conviction to make good the damage done by such injury and to a fine not exceeding one hundred pounds or to imprisonment of either description for a period not exceeding two years.

Sewerage and Drainage Works.

87. The Council may erect, construct, equip and carry on sewerage or drainage works within or without the municipality: Provided that the Council shall not—

- (a) commence to erect or construct sewerage works; or
- (b) commence to erect or construct drainage works involving expenditure in excess of five hundred pounds or being part of any drainage scheme the whole of which involves expenditure in excess of five hundred pounds.

without the prior consent of the Governor.

88. For the purpose of carrying out any drainage or sewerage works the Council may—

- (a) cause such sewers, drains and pipes to be made, laid, altered, deepened, covered over, and maintained either within or (subject to the provisions of section 91) without the municipality as may be necessary for effectually disposing of the sewage or drainage of the municipality of any portion thereof, and from time to time cause to be made and maintained such reservoirs, sluices, engines, circulating plants, and other works as may be necessary for cleansing and ventilating such sewers, drains and pipes;

(b) carry such sewers, drains or pipes through, across or under any public road, street, square or open space or any place laid out as or intended to be a public road, street, square or open place, either within or without the municipality, without paying compensation, and, after giving reasonable notice in writing to the owner or occupier of the intention to do so, perform the same acts in respect of private land within or (subject to the provisions of the said section) without the municipality upon making compensation for any damage done, the amount whereof shall be determined, in default of agreement, by arbitration;

(c) from time to time alter, enlarge, divert, discontinue, close up, or destroy any sewers, drains or pipes under the control of the Council;

(d) construct any works within or (subject to the provisions of the said section) without the municipality for the purpose of receiving, storing, disinfesting, purifying, distributing or otherwise disposing of any sewage or drainage;

(e) in any case where, owing to the contour of the ground or for other reasons, it is difficult to connect for sewerage purposes any premises within the municipality direct with a public sewer maintained by the Council, the Council may, subject to the provisions of paragraph (b) of this section, make connections with and utilise any private drain on private ground

so as to connect such premises with any public sewer. Provided that upon such connection being made the said drain with which connection is made shall, from the point of such connection to the point of junction with the public sewer, be considered and used as a combined or joint drain, and the cost of construction, repair and maintenance of such combined or joint drain shall, so far as the same shall not fall to be borne by the Council, be paid and borne by the owners of premises respectively served thereby, in such proportions as the Council shall from time to time adjust and settle.

Vesting of sewers in the Council, and right of access thereon.

89. All sewers, drains, pipes, ventilating shafts, or other conveniences for the disposal of sewage or drainage, constructed by or which are under the control of the Council, shall be vested in the Council, and the Council, its officers and servants, shall at all times have a right of access to private property for the purpose of inspection, maintenance, alteration or repair of such sewers, drains, pipes, shafts or other conveniences, and may do all things necessary to uncover and expose such sewers, drains, pipes, shafts or other conveniences for the purpose of inspection, alteration or repair: Provided that the Council shall repair all damage caused by the exercise of the powers conferred by this section.

Sewage farms.

90. The Council may establish, maintain and carry on any such sewage farms or sewage disposal works, either within or (subject to the provisions of section 41) without the municipality as may be necessary or advisable for the requirements of the municipality, and may farm the same and dispose of the produce thereof; and neither the Council nor any person shall be liable for any nuisance or damage which is the inevitable consequence of the proper and ordinary conduct of any sewage farm or sewerage disposal works established, maintained or carried on under the provisions of this section.

Notice before commencing sewerage works outside municipality.

91. (1) The Council shall, at least thirty days before commencing outside the municipality the construction or extension of any sewer or any work for sewerage purposes, give notice of the intended work by advertisement in the Gazette and in one or more newspapers circulating in the area within which the work is to be done, or, if there is no such newspaper, then in one or more newspapers (if any) circulating in the municipality. Such notice shall describe the nature of the intended work, and shall state the intended termini thereof and particulars of the roads, streets, squares, open spaces and other land (if any) through, across, under or on which the work is to be done, and shall name a place where a plan of the intended work is open for inspection at all reasonable times. A copy of such notice shall be served upon the owners or reputed owners, lessees or reputed lessees, and occupiers of the land and on the local authority (if any) having the care of such roads, streets, squares or open spaces.

(2) If any owner, lessee or occupier, or any such local authority, or any person who would be affected by the intended work, objects to such work and serves written notice of objection on the Commissioner for Local Government and on the Town Clerk at any time within the said period of thirty days, then the intended work shall not be commenced without the consent of the Governor unless such objection is withdrawn.

(3) The Governor may appoint the Commissioner for Local Government or any other person or persons to make inquiry on the spot into the propriety of the intended work and the objections thereto, and to report to him on the matter: The report of the Commissioner for Local Government or such other person as aforesaid shall be forwarded to the Governor through the Standing Departmental Committee constituted under section 125 of this Ordinance, and such Committee shall record its recommendations thereon. On receiving such report the Governor may make an order disallowing the intended work or allowing it with such modifications (if any) as he may deem necessary.

92. (1) Any person who, without the prior consent in writing of the Council, shall—

Provisions for protection of sewers and drains.

- (a) erect or cause to be erected any building or other structure under any sewer, drain or pipe vested in or constructed under the authority of the Council; or
- (b) excavate, open up or remove, or cause to be excavated, opened up or removed, the ground under or near to any such sewer, drain or pipe; or
- (c) make or cause to be made any opening into any such sewer, drain or pipe, for the purpose of discharging sewage or drainage, or the same or otherwise; or
- (d) injure or destroy, or cause to be injured or destroyed, any such sewer, drain or pipe or any works or things in connection therewith.

shall be guilty of an offence and shall be liable in connection with a fine not exceeding fifty pounds or to imprisonment of other description for a period not exceeding one year.

(2) The Council may, after demolition or otherwise laid with any building or structure so erected as it may think fit, or may make good any such damage, or may close up any such opening, and the expenses so incurred shall, along with such fine, be recoverable from the offender.

93. Any charges which the Council may fix by by-law for the use of the Council's drains or sewers or sewerage works shall for all purposes be deemed to be charges for sanitary services, and shall be recoverable from the owner of any land or premises which are connected with such drains, sewers or sewerage works in accordance with section 111 of this Ordinance.

Charges for use of sewers and drains.

94. (1) The Council may—

Power to execute drainage works on private land or premises and to make advances therefor.

(a) carry out, either by its own servants or by contractors, any work in connection with the installation or improvement of a drainage or sewerage system on any land or premises, and may connect any such system with the Council's drains or sewers, and may recover from the owner of such land or premises the expenses incurred in such work, including a reasonable charge for supervision and, if the work is undertaken without the interposition of a contractor, for the use of tools and plant; or

(d) advance to the owner of any land or premises the amount of any expenses incurred or to be incurred by him for the execution of any such drainage or sewerage work on such land or premises.

(2) The Council may agree to accept payment of such expenses and repayment of such advances in such instalments, at such times, upon such rate of interest, and upon such conditions as the Council may determine.

(3) Such expenses and advances, together with the interest thereon, shall be a charge upon the land or premises in respect of which the same are incurred or made, and shall be paid to the Council by the owner thereof for the time being, and the instalments thereof as they fall due shall be recoverable from the present or any future owner of the land or premises in any competent court.

(4) The Council shall keep at the municipal offices a register of all expenses incurred and advances made under this section, and shall show in such register the total amounts thereof, the instalments in which the same are payable, the land or premises in respect of which the same have been incurred or made, and the balances for the time being outstanding, and shall keep such register open at all reasonable times to the inspection of any person, free of charge. Such register and any extract therefrom certified by the Town Clerk or by any other person authorised by the Council shall, in any proceedings for the recovery of such expenses, advances or interest thereon or any instalments thereof, be *prima facie* evidence of the matters contained therein.

(5) Nothing in this section shall limit or affect the power of the Council to execute any work which the Council is, by law or by any by-law in force in the municipality, empowered to execute or to recover the cost of executing such work from any person who is liable therefor.

By-laws.

Power to make by-laws. 35
 35 The Council may from time to time make, alter and revoke by-laws in respect of all such matters as are necessary or desirable for the maintenance of the health, safety and well-being of the inhabitants or for the good rule and government of the municipality, and more especially for all or any of the following purposes:—

General. 40
 (1) For regulating any of the things which the Council is empowered under this Ordinance to do, establish, maintain or carry on, and for fixing the charges to be made in respect thereof;

Proceedings of the Council. 45
 (2) For regulating the proceedings of the Council and of committees, and for prohibiting, restricting and regulating the publication and disclosure of the Council's documents and records and the proceedings of any committee of the Council, and for regulating the duties and privileges of members, officers and servants of the Council;

Sanitation. 55
 (3) (a) For establishing, maintaining and compelling the use of any sanitary service which the Council is authorised to carry out or regulate, or which may be established by virtue of any powers vested in the Council for the removal and destruction of or otherwise dealing with night-soil, slops, rubbish, carcasses of dead animals and refuse of all kinds;

(b) For keeping public places clean and free from filth, rubbish or refuse, and for prohibiting the throwing, dropping or depositing of any filth, rubbish, glass, tins, paper, dead animals, waste or flushing water or other refuse, liquid or solid, on or in any road, street, bridge, thoroughfare, open space, stream or watercourse, and for preventing any such liquid from flowing into any such place, and for regulating or prohibiting the bathing or washing of persons, animals or things in any such place;

(c) For preventing the use or misuse and securing the closing of cesspools, and for compelling and regulating the provision, construction, position, screening, use, cleansing and repair of earth closets, water closets, privies, ashpits, ashbins, urinals, sinks, fixed baths and fixed basins, waste pipes, drains and slop tanks in connection with buildings;

(d) For prohibiting, removing or abating, and for preventing the recurrence of nuisances:

Provided that the by-laws may provide that in any case where it appears that a nuisance existing within the municipality is wholly or partly caused by some act or default outside the municipality proceedings may be taken against any person in respect of such act or default in the same manner and with the same incidents and consequences as if the act or default were wholly inside the municipality.

(e) For securing the proper construction and regulating stables, cowsheds, and live-houses, and for preventing the keeping of animals on premises which are not constructed in accordance with the by-laws or are so constructed as to cause or permit animals if kept thereon, or likely to cause a nuisance or injury to health, and for prohibiting the keeping of swine on any premises which the Municipal Officer of Health certifies to be so situated as to be unfit for the purpose;

(f) For prohibiting the erection of buildings or the conversion of existing buildings for use as stables or cowsheds for trading purposes in residential areas, and for defining areas where such buildings may or may not be erected or used;

(g) For ascertaining the existence and cause of any nuisance arising from any drain, closet, cesspool, water supply, sink, trap, syphon, pipe or other work or apparatus connected therewith, and for remedying the same and recovering the expenses incurred by the Council in respect thereof, and for regulating the liability and penalty for nuisance in any yard or sanitary convenience used in common by the occupiers of two or more separate dwellings or by different tenants of the same building;

(h) For regulating, controlling or prohibiting the construction or use of septic tanks and filter installations or other works for the disposal of sewage on private property;

Public health.

- (4) (a) For preserving the public health;
 - (b) For preventing the outbreak and spread of infectious and contagious diseases, for declaring what diseases are notifiable, for compelling the notification of such diseases, for compelling the removal of persons suffering from any such disease to suitable hospitals or places of segregation and their detention and treatment therein where, in the opinion of the Medical Officer of Health, such removal, detention and treatment are necessary either for the protection of the public health or by reason of the insufficiency or unsuitability of the patient's lodging or accommodation, for regulating and enforcing quarantine and the disinfection of persons, places or things, and for authorising the seizure and detention and ensuring the destruction (when necessary) in the opinion of the Medical Officer of Health of articles which are infected or which have been exposed to infection, upon payment of compensation to the owner thereof, such amount to be settled by agreement or arbitration;
 - (c) For compelling the giving of any information or the production of any documentary or other evidence required for the purpose of tracing the source and preventing the spread of infection, for requiring the closing of schools or trade premises which are suspected of being or are likely to become sources of infection, and for prohibiting persons who are or are suspected of being or are likely to become infected from carrying on any trade or business or engaging in any occupation which may cause the spread of any infectious or contagious disease;
 - (d) For requiring any person arriving in the municipality within fifteen days of leaving any district infected or suspected of being infected with any disease declared to be notifiable under paragraph (b) of this sub-section, or within fifteen days of landing in the Colony from any ship so infected or suspected of being infected or from any ship which has, within ten days prior to his landing, sailed from or touched at any port so infected or suspected of being so infected, to report to the Medical Officer of Health his name and place of residence within the municipality;
 - (e) For eroding, regulating and maintaining isolation hospitals, and appointing committees of management thereof.
- (5) For granting licences (but without charging any fee therefor) to private hospitals and nursing homes, and for regulating such hospitals and nursing homes;
- (6) (a) For inspecting and examining any article of food or drink for sale, for regulating and supervising the manufacture, preparation, storage, transmission and conveyance of any article of food or drink for sale, and for prohibiting and preventing the introduction into the municipality, the possession, sale or offering for sale, for the purpose of human consumption, or the handling (other than for purposes of destruction) of diseased animals, diseased meat, fish or other articles of food or drink unfit for human consumption;

Private hospitals and nursing homes.

Unwholesome food and drink.

- (c) For authorising the seizure and ensuring the destruction (when necessary) in the opinion of the Medical Officer of Health of any meat, fish or other article of food or drink which is diseased, unsound, unwholesome or unfit for human consumption;
 - (e) For permitting at the owner's risk such treatment in lieu of destruction of any diseased, unsound or unwholesome article of food or drink as may render the same fit for human consumption;
 - (d) For authorising the seizure and ensuring the destruction of diseased animals when certified to be necessary by a veterinary officer employed or approved by the Department of Agriculture;
 - (e) For ordering the detention pending examination or inquiry of animals or articles of food or drink;
 - (f) For prescribing standards of composition, strength or quality, and for preventing the adulteration, misdescription or reduction below a prescribed standard (or, where none has been prescribed, a proper standard) and securing the sale in a pure state and in a condition which conforms with such standards of milk or any other article of food or drink or any drug;
 - (g) For authorising the Council by its officers or servants to inspect and examine any animal, article or package, and to cut into any dead animal or any article or package, and to purchase samples and require the sale of samples for the purposes of this sub-section.
- (7) For prohibiting, regulating, inspecting, supervising and licensing noisome and offensive trades, and for compelling residents to keep their premises free from offensive or unwholesome matter.
- (8) For regulating, inspecting and supervising the work or trade of manufacturing flock from rags, and for prohibiting the sale and use for the purpose of manufacture of articles of unclean flock manufactured from rags, and for requiring persons establishing or carrying on such work or trade to obtain a licence from the Council for the purpose of so doing;
- (9) For prohibiting, regulating, inspecting, supervising and licensing the work or trade of disinfection or fumigation by cyanide or other means, and for penalising persons who, after due notice, refuse without reasonable ground to vacate any room or rooms occupied by them on the same floor or on any floor above that of any building where fumigation is being carried out, and for the cancellation of licences granted to fumigators in cases where the licensee upon conviction for any offence has been proved to have been negligent, careless or incompetent in or at his work or trade aforesaid;
- (10) For regulating and prohibiting the establishment or carrying on of any trade, business or calling which may in the opinion of the Council be or be likely to become a source of serious nuisance, discomfort or annoyance to the neighbourhood;

Unlucative trades.

Flock manufacture.

Fumigation.

Objectionable trades.

...the effects of areas within which shops, warehouses, factories or business premises may not be erected or within which specified trades, businesses or callings or street trading may not be established or carried on.

(12) For regulating, inspecting, supervising and licensing all businesses, factories, and workshops which, by reason of smoke, fumes, gases, dust, smell, noise, vibration or other cause, may be or become sources of danger, discomfort or annoyance to the neighbourhood, and prescribing the conditions subject to which such businesses, factories, or workshops shall be carried on, and for prohibiting the carrying on thereof unless the prescribed licences shall have first been obtained and the prescribed conditions complied with.

(13) For regulating, inspecting, supervising and licensing the killing of cattle and other animals and the sale of butchers' meat, and for the establishment and localisation of slaughter-houses and meat shops and their maintenance in a clean and proper state, and for authorising the entry on and inspection of slaughter-houses and meat shops and the cattle, carcasses and meat therein.

(14) For regulating the use and management of municipal slaughter-houses and depots for the inspection of milk and food meat, and for prohibiting the slaughtering of animals intended for human consumption elsewhere in the municipality than in municipal slaughter-houses, except in the case of animals which the occupier of any premises may slaughter for his own or his family's consumption.

(15) For regulating, inspecting, supervising and licensing tea-rooms, cafés, restaurants, hotels, eating, boarding and lodging-houses, bakehouses, butcher's shops, grocers' shops, and all factories and places where articles of food or drink are manufactured or prepared for sale or use, or are stored or sold.

(16) For regulating, supervising and licensing purveyors of milk and ice-cream makers or vendors, for regulating, inspecting, supervising and licensing dairies, milk-shops, and cowsheds, for regulating the conveyance and distribution and securing the identification of the source of milk or milk products distributed, offered for sale, or sold within the municipality, for prescribing the conditions subject to which any milk or milk products produced or prepared within or without the municipality may be introduced, distributed, stored, sold or used within the municipality, for enabling the Council to certify the quality of any milk and prohibiting the unauthorised use of any terms employed by the Council in denoting such quality, and for prohibiting the introduction, distribution, storage, sale or use within the municipality of any milk or milk products from any source within or without the municipality where it appears to the Council or committee thereof, on the certificate of the

Medical Officer of Health, that the consumption of such milk or milk products is likely to cause the outbreak or spread of any infectious or contagious disease.

(17) For regulating, supervising and licensing pedlars and hawkers.

(18) For regulating or prohibiting the washing of clothes on public or private premises, for supervising and licensing persons for washing and laundry work for the inhabitants of the municipality, for regulating, supervising, and licensing (but without charging any fee therefor) premises or places outside the municipality (hereinafter referred to as "outside laundries") at which articles are washed for such inhabitants, and for preventing the introduction into the municipality of any articles as aforesaid unless the "outside laundries" at which they were washed have been licensed by the Council.

(19) For securing the prevention and destruction of rats and other vermin within the municipality, and for enabling the Council to set traps or take other measures on any premises necessary for this purpose, for prohibiting interference with such traps, and for prohibiting or regulating the laying down and use of poison for the destruction of animals or vermin.

(20) For securing the prevention and destruction of locusts and other noxious insects within the municipality, for preventing and abating agricultural pests, and for the supply of poison and appliances for aforesaid purposes.

(21) For preventing and abating conditions permitting or favouring the breeding of mosquitoes and flies, and, generally, for the prevention of malaria and other insect borne diseases.

(22) For regulating the manufacture of chemicals.

(23) For regulating and supervising the practice of midwives, and for prohibiting the practice of midwifery by persons other than registered midwives.

(24) For regulating and controlling the use of public baths, wash-houses, chobbie quarters and laundries established by the Council.

(25) For regulating barbers and hairdressers and barbers' and hairdressers' shops.

(26) (a) For regulating the supply and distribution of any water under the control or management of the Council, for preventing waste and misuse thereof, and for compelling owners and occupiers to maintain in good order water furrows abutting on their premises.

(b) For providing water meters, for fixing charges for water according to meter, and for determining the areas within which such meters shall be installed and used.

(c) For preventing the pollution of any water which the inhabitants have a right to use.

Dangerous and factories

Private slaughter-houses and meat shops

Municipal slaughter-houses

Premises where food or drink is manufactured or sold

Sale of milk or milk products

Washing of clothes

Destruction of rats and other vermin

Destruction of locusts and other noxious insects

Mosquitoes and malaria

Manufacture of chemicals

Public baths, etc.

Barbers and hairdressers

Water supply

- (d) For preventing the pollution of gathering grounds, rivers, canals, springs, wells, reservoirs, filter beds, water purification or pumping works, tanks, cisterns, or other sources of water supply or storage, the water wherein or wherefrom is used or is likely to be used within the municipality for drinking or domestic purposes;
- (e) For compelling the provision of a proper and sufficient water supply for every dwelling-house, school, store, factory or workshop;
- (f) For compelling owners of premises which, in the opinion of the Council, are not provided with a sufficient supply of good and wholesome water for drinking and domestic purposes to take such a supply from any pipe or main belonging to the Council or that is within reasonable distance of such premises;
- (g) For prohibiting, subject to the payment of compensation in respect of existing boreholes or wells, the use of water from, or the provision or sinking of, any borehole or well on any premises in cases where, in the opinion of the Council, such use, provision or sinking prejudicially affects or diminishes or is likely so to affect or diminish any municipal water supply;
- (27) (a) For regulating the construction, alignment and elevation of all buildings or other structures and all parts thereof, for compelling the pulling down, removal or rendering safe of all buildings, walls, bridges, earthworks, and verandahs of an unsafe or dangerous character, or which have been allowed to fall into a dilapidated condition, and for doing any such work at the cost of the owner and recovering such cost;
- (b) For prohibiting or regulating the erection or use of back-to-back tenements or houses, and for ensuring sufficient air space and ventilation between houses and adequate through ventilation within houses;
- (c) For prohibiting the owners or occupiers of any premises from allowing any wells or other excavations thereon to be in an unprotected or dangerous state, for compelling the fencing, filling in or covering over of wells or excavations which are in such a state, and for doing such work at the cost of the owner or occupier and recovering such cost;
- (d) For regulating, controlling or prohibiting the erection and use of any temporary or movable structures, whether standing on wheels or otherwise, and for prohibiting or restricting the use of tents or similar structures for business or dwelling purposes;
- (e) For preventing the discharge of any guttering or down-pipe on to any footway, pavement or sidewalk, and for securing, regulating and controlling the laying down of pipes to carry any outflow therefrom to such gutter or drain as may be authorized or approved by the Council for the purpose;

- (f) For regulating the sizes of pieces of ground on which buildings may be erected, for prescribing, with due regard to the local conditions of different parts of the municipality, the extent and disposition of the open space or private land to be provided and maintained in connection with new buildings in order to secure proper sanitary conditions, amenity and convenience, and for prohibiting the erection of buildings on any open space so provided;
- (g) For preventing the erection of buildings on ground contaminated by any faecal, animal or vegetable matter;
- (h) For requiring and regulating the lighting and cleansing of staircases and passages used in common by different tenants of the same building, and the cleansing, drainage and paving of courts, yards, and open spaces used in connection with dwellings;
- (i) For prescribing the frontage lines, securing the regularity of lines and level of buildings and of the architecture of buildings, and the removal, alteration and prevention of projections or obstructions in front of buildings;
- (j) For preventing the erection, alteration or use of any building or structure whatsoever which, either in itself or from the circumstances or nature of the locality in which it is or is to be placed, is a disfigurement to the town or an annoyance to the inhabitants thereof and for securing the removal of projections over streets;
- (k) For preventing the erection of any building or structure whatsoever which, in the opinion of the Council, is or is likely to be objectionable by reason of either the nature or construction of the building itself, or the uses to which it is to be put, or its environment;
- (l) For regulating or prohibiting the use as a dwelling of any building not erected for that purpose;
- (m) For preventing the sub-division or alteration of buildings or dwellings in such a manner as might be calculated to be injurious to health or to depreciate the value of properties in the locality or to cause annoyance to the inhabitants of the neighbourhood;
- (n) For preventing buildings on lands being put to uses which might be calculated to depreciate the value of neighbouring property or to interfere with the convenience or comfort of neighbouring occupiers;
- (o) For regulating, restricting or prohibiting the erection of dwellings or structures of wood or wood and iron or canvas or of hoardings or fences;
- (p) For regulating the inspection of buildings and structures by the Council, its officers and servants, and for regulating the erection and use of scaffolding and hoarding during the construction, demolition, repair or alteration of any building or structure;

- (g) For determining and regulating
 (i) the structure of walls, foundations, roofs, chimneys, windows, gutters, down-piping and all other parts of buildings, whether new or already existing, in order to secure stability, sufficient light, light and ventilation, and the proper carrying off of rain water, as well as for the prevention of fires and for purposes of health;
 (ii) the sufficiency of the space about buildings in order to secure a free circulation of air and the proper ventilation of buildings;
 (iii) the closing of buildings or parts of buildings which are unfit for human habitation;
 (iv) adequate provision for the escape of the occupants of any building in the event of an outbreak of fire, by way of ordinary or special doors, outside iron stairways or other means, having regard to the size and use of the building;
 (r) For the giving of notice and the deposit of plans and sections by persons wishing to construct or alter buildings, for the approval or otherwise of all plans and sections of any such building or alteration, for the removal, alteration, or pulling down, at the cost of the owner, of any work begun or done in contravention of any by-law, and for preventing the occupation of any new or altered building until a certificate of the fitness thereof for habitation shall have been issued by the Medical Officer of Health.
- (30) For regulating, supervising and licensing lodging-houses and lodging-house keepers, and for prohibiting or regulating the use of underground means for human habitation or occupation.
- (31) For preventing or regulating the sub-division or cutting up of land or the sub-division of existing building lots into smaller areas, for providing that no transfer of any such sub-division of land shall be registered in any deeds registry unless and until a certificate under the hand of the Town Clerk has been produced to the registration officer to the effect that the Council has approved of such sub-division, and for preventing the withdrawal, cancellation or alteration, except with the consent of the Council, of any sub-divisional plan which has been approved by the Council.
- (32) For providing for the due and proper care of the common pasture or other municipal land, and for prohibiting or regulating grazing thereon.
- (33) For granting permits to make bricks or to dig and burn lime, or to dig and remove clay, gravel, peat or turf, or to quarry or crush stone, or to cut or burn firewood, brushwood, or grass upon municipal lands.
- (34) For planting and preserving trees, flowers, and shrubs, for prohibiting or regulating the planting of trees and shrubs in public places, and for maintaining, cutting or removing any such trees or shrubs and preventing the removal or injury thereof.
- (33) For preventing or regulating the keeping of stallions, bulls, rams, swine, bees, and of wild or dangerous animals within the municipality; Dangerous animals
- (34) For regulating or licensing the keeping of dogs, for providing for the seizure, sale or destruction of vicious, dangerous, ownerless and unlicensed dogs, and for prohibiting bitches in heat from running loose in streets or public thoroughfares; Dogs
- (35) For preserving and protecting birds and animals, wild or domesticated; Birds
- (36) (a) For regulating the width, curbing, paving, guttering, gravelling and cleansing of roads and streets;
 (b) For regulating the traffic and preventing and removing obstructions in or on public places, for dealing with live stock and dead, diseased or injured animals found in any public place, and for restricting and regulating the driving of live stock through streets or other public thoroughfares;
 (c) For regulating and controlling traffic, processions, and gatherings at, in or on public places, and for prohibiting or restricting the use of specified classes of vehicles in certain streets or areas;
 (d) For preventing any person or vehicle from carrying or conveying any article, burden or load so as to obstruct or impede the passage of vehicles in any public place, and for preventing the widening of wheelbarrows, cycles or other vehicles on any sidewalk or foot-pavement except for the purpose of crossing the same to or from any building;
 (e) For preventing persons from congregating with others and so causing obstruction in any public place, except such as may be set apart for the purpose.
- (37) For regulating street trading and for licensing and supervising street traders; Street trading
- (38) For regulating, licensing, supervising, restricting or prohibiting the playing of musical instruments, or singing or performing for profit, in or on any public place; Street musicians
- (39) (a) For regulating, supervising and licensing porters, public carriers, carters, motor vehicle attendants, omnibuses, cabs, rickshaws, trolleys and all other public vehicles and the drivers or hauliers thereof, for fixing the amount of the licence fees to be paid, the charges or fares whether by distance or by time within or without the municipality, the number of passengers and the weight, dimensions, and nature of the loads to be carried, and for enabling the Council to endorse, suspend or cancel any such licence;
 (b) For compelling the provision and use in public vehicles of such taximeters as may be prescribed;
 (c) For providing in the interests of public safety, for the periodical examination by an authorised officer of the Council of all public vehicles, and for prohibiting the use of any vehicle as a public vehicle unless a certificate of efficiency under the hand of such officer has first been obtained by the applicant for a licence or by the licensee; Carriers and public vehicles

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Traction engines

(40) For regulating, supervising and licensing bicycles, (tricycles, motor-cycles, and traction engines, for registering and licensing such vehicles, and for prohibiting the use of traction engines within the municipality or any portion thereof.

Motor vehicles

(41) For regulating and licensing motor vehicles, motor-cars and motor-cycles belonging to persons having a residence or place of business within the municipality where such vehicles are ordinarily housed or kept. Provided that the licence fee imposed in respect of such vehicles shall be one-half of the licence fee payable under the Motor Traffic Ordinance or any Ordinance amending or replacing the same.

Conveyance

(42) For regulating and licensing all private vehicles not hereinbefore provided for.

Private vehicles

Conveyance of meat

(43) For regulating the conveyance of meat or dead animals through or along any street or public thoroughfare.

Placing of articles on window-sills

(44) For preventing the placing of articles on window sills or in any other position near any street in such a manner as may be likely to cause danger or annoyance to passers-by.

Street wiring

(45) For prohibiting or regulating and for supervising, inspecting and licensing the erection of wires of any kind in, along, under or over any street or public thoroughfare, other than wires erected for public purposes by Government or by the Kenya and Uganda Railway.

Street advertisements

(46) For regulating, supervising, inspecting, prohibiting and licensing the display of advertisements or advertising devices in or in view of any street or public thoroughfare, for prohibiting the display of advertisements, devices or pictures which are indecent or suggestive of indecency, and for preventing the display of advertisements or advertising devices in such places or in such manner or by such means as would, in the opinion of the Council, be likely to affect injuriously the amenities of or to disfigure any neighbourhood.

Advertising devices

(47) For regulating, supervising, inspecting, prohibiting and licensing the use and passage of advertising sandwich boards, lanterns, flags, screens or other movable advertising devices in or along any street or public thoroughfare.

Signboards, etc

(48) For preventing the disfiguring of the fronts of buildings or fences, and for prohibiting, supervising, inspecting and licensing the use, or regulating the size, description and fixing of, signboards, screens, private lamps, sunblinds or other devices attached to or connected with any buildings or fences, by means of which advertisements or notices of any kind may be displayed.

Street decorations, platforms, etc

(49) For regulating street decorations, and for prohibiting or regulating the erection and removal of temporary platforms, seats and other structures for the use of the public at any meeting or entertainment or for the

accommodation of spectators at any procession, exhibition, ceremony or spectacular display of any kind.

(50) (a) For regulating the conveyance, removal, transport, manufacture, storage, sale and use of petroleum, explosives, fireworks, gas and all other inflammable liquid or combustible material.

Conveyance, etc. of inflammable or combustible material.

(b) For prescribing the routes and speeds by and at which, and the days and times when, explosives or inflammable material may be conveyed.

(51) For prohibiting or regulating collections of money in public places for charitable or other objects.

Charitable collections

(52) For establishing and regulating public markets and market dues, and for prohibiting the establishment of any market within the municipality without the permission of the Council.

Markets

(53) For regulating public sales held on any public or open space or in any public building.

Public sales

(54) For regulating, supervising, inspecting and licensing places used for the purpose of selling publicly, or exposing to public sale, any cattle, horses, sheep, goats, pigs, poultry or other live stock, for licensing persons to conduct such sales in municipal markets or elsewhere, and for requiring the deposit of security by the applicant for such licence.

Sales of livestock

(55) For regulating, supervising, and inspecting the construction and maintenance of all installations for the supply of light, heat or power by means of electricity or otherwise.

Lighting and power installations

(56) For regulating lighting with gas, electricity or otherwise.

(57) For regulating the generation of acetylene gas or other inflammable or explosive gas and the generation and use of all apparatus connected therewith and for preventing or regulating the storage of liquid acetylene or carbide of calcium.

(58) For granting to electricians licences (but without charging any fee therefor) authorising them to carry out electrical wiring work for the installation, alteration or repair of any system of wiring connected or intended to be connected with any municipal works for the supply or distribution of power, for regulating such electricians and for prohibiting the carrying out of any such work by any unlicensed person.

Electricians

(59) For preventing and extinguishing fires, for compensating the owner of buildings removed in order to prevent the spread of fires, and for regulating fire brigades.

Fires and fire brigades

(60) For regulating and licensing theatres, music halls, public halls, concert rooms, public billiard rooms, and other places of public amusement.

Theatres, etc

(61) For establishing, regulating, supervising, inspecting and licensing places of public recreation and public resort, and for regulating the means of ingress and egress in any such places.

Places of public resort

Use of streets by natives
 Native dances
 Native housing
 Native labour
 Native locations
 Native passes
 Wood sawyers
 Dealers in second-hand goods
 Cycle dealers
 Boating establishments
 Undertakers
 Protection of municipal property
 Quarrying of stone, etc.
 Houses of ill-fame
 Public decency, indecent literature, etc.
 Exhibitions of curiosities
 Betting
 Gambling houses

- (60) For regulating the use of streets and other public places by natives, and for prohibiting or regulating the carrying by natives of sticks, spears, knives or other weapons;
- (61) For prohibiting or regulating native dances, ngomas and masques;
- (62) For regulating the housing of natives by their employers;
- (63) For regulating and licensing wash boys and native labourers other than those employed in industrial concerns or domestic service;
- (64) For regulating, supervising and inspecting native locations, and for regulating the charges to be made for the occupation of buildings in such locations;
- (65) For regulating the issue of passes to and the carrying of passes by natives within the municipality, and for fixing charges payable by natives for passes, not exceeding a maximum to be approved by the Governor in Council;
- (66) For regulating, supervising and licensing wood sawyers and other dangerous trades;
- (67) For regulating, supervising and licensing the trade, business or occupation of dealers in second-hand goods, including bottles, tacks, bones and tins;
- (68) For regulating, supervising and licensing cycle dealers, manufacturers and repairers;
- (69) For regulating, supervising, inspecting and licensing swimming baths and bathing establishments, and for prohibiting or regulating bathing in any open piece of water within the municipality;
- (70) For regulating, supervising, inspecting and licensing boating establishments, for licensing boats whether kept for hire or otherwise, and for regulating the use of and fixing the number of persons to be carried in such boats;
- (71) For regulating, supervising and licensing undertakers and for regulating the conveyance and disposal of dead bodies;
- (72) For protecting from damage or interference any municipal works or property situated or being in, upon or over any public or other place within the municipality;
- (73) For prohibiting, restricting or regulating the quarrying of stone, lime, clay or other material on any premises;
- (74) For suppressing houses of ill-fame;
- (75) For preserving public decency, for prohibiting the sale or exhibition of indecent literature, pictures and devices, and for prohibiting the sale or exhibition of pictures or devices of the nude;
- (76) For prohibiting or restricting the public exhibition of curiosities, freaks of nature, or any abnormal persons or animals;
- (77) For prohibiting betting in any public place;
- (78) For suppressing gambling houses;

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- (79) For regulating the possession and use of firearms and the carrying of weapons by which bodily hurt can be inflicted; Firearms.
- (80) For enforcing and regulating the fencing of unoccupied plots, and for regulating the use of barbed wire for fencing; Fencing of plots.
- (81) For regulating and licensing livery stables and any place where horses or other animals are kept for hire; Livery stables.
- (82) For regulating the taking by the Council of any census of the inhabitants of the municipality, for defining the duties of census officers appointed by the Council, for compelling the giving of information required for the purpose of such census, and for prohibiting the divulging of such information; Census.
- (83) For regulating the construction by any owner of land at his own expense of a footway along the side of any street abutting on his land, the paving of any such footway with concrete blocks or stones or in any other way, and the construction and paving, at the cost of such owner, of any such footway; Construction of footways.
- (84) For regulating and maintaining any service of motor omnibuses or other vehicles, drawn or propelled by animal, mechanical or electric power, which may be established by the Council; Omnibus service.
- (85) For regulating sewerage and drainage, for compelling the construction and connection, at the cost of the owner, of private drains with public drains, sewers or pipes, and for regulating the construction by the Council, at the cost of the owner, of all house drains in so far as they connect with and extend from the main sewer of the locality; Sewerage and drainage.
- (86) For regulating the carrying, deposit and the deposit of plans and sections by persons intending to carry out any sewerage or drainage work on any land or premises and the approval or disapproval thereof by the Council, and for the removal or alteration of any sewerage or drainage works begun or done in contravention of any by-law;
- (87) For fixing the charges which may be made for the use of the Council's drains, sewers and sewerage works;
- (88) For granting to plumbers and drain-layers licences authorising them to carry out:
 - (a) plumbing or drain-laying work for the installation, alteration or repair of any system of drainage connected or intended to be connected with any municipal sewer, and for
 - (b) drain-laying or drainage work (other than storm-water drainage) for draining soiled or waste water,
 and for regulating such plumbers and drain-layers and for prohibiting the carrying out of any such work by any unlicensed person.

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- Pension and provident funds
- (85) (a) For permitting or requiring all or any of its officers or servants to become members of one or more pension, provident or benevolent fund or funds established, controlled, managed or maintained by the Council under sub-section (19) of section 78;
- (b) For fixing the contributions, if any, to be made by such members and by the Council;
- (c) For making periodical valuations of such funds and for the enforcement of any increase in the contributions thereto or diminution in the benefits arising therefrom as may be shown by any valuation to be necessary for maintaining the solvency thereof;
- (d) For prescribing the age at which persons in the service of the Council shall be permitted or required to become members of the fund and the age at and the conditions under which they shall be permitted or required to retire from the service of the Council;
- (e) For determining the amount of pension or other benefit to be paid to members on retirement from the service of the Council and to their dependents on death;
- (f) For regulating the management and investment of funds and the appointment or election where necessary of members of a committee for that purpose;
- (g) For vesting the property, moneys or assets pertaining to such funds in trustees for the purpose of administration thereof as directed by any committee of management by and against whom all actions at law relating to the fund shall be brought;
- (h) For regulating the retirement, removal and resignation of members of such committees of management or trustees and for filling of vacancies caused thereby;
- (i) For prescribing that no pension or right to a pension shall be capable of being assigned or transferred or otherwise ceded or of being pledged or hypothecated or of being attached or subjected to any form of execution under a judgment or order of a court of law, and for withholding, suspending or entirely discontinuing the payment of the same in the event of the beneficiary attempting to assign, transfer or otherwise cede or to pledge or hypothecate any pension or right as aforesaid;
- (j) For prescribing that in the event of any person in receipt of an annuity being convicted by any court in His Majesty's dominions and being sentenced to imprisonment without the option of a fine for a period exceeding one month any such annuity shall during such period of imprisonment be payable to his dependents;
- (k) For agreeing with one or more other councils to establish a united pension, provident or benevolent fund for the benefit of persons in the service of any of those councils. Provided that
- (l) every such united fund shall be established by separate resolutions passed by each of the councils and approved by the Governor and shall be subject to such by-laws as may be framed under paragraphs (a) to (j) hereof and adopted by each of the councils concerned;

- (ii) such by-laws shall provide for the management and investment of such united fund being vested in a joint board consisting of representatives of the councils which are members of the said fund and the employees, and for the election of the members of such board;
- (iii) the expenses of the administration of a united fund so established shall be defrayed by the councils concerned in such proportions as may be agreed upon from time to time;
- (iv) any council, other than a council concerned in the establishment of such united fund, may by resolution approved by the Governor and subject to such terms as may be mutually agreed upon between the joint board and the council, join in any united fund.

No by-law made under this section shall be inconsistent with or repugnant to the provisions of this Ordinance or of any Ordinance dealing with public health or of any other law in force within the municipality.

98. The following are hereby declared to be nuisances for the purposes of this Ordinance, namely:

What constitutes nuisance

1. Any cesspool, and any railway carriage or other conveyance in such a state or condition as to be offensive or dangerous to health;
2. Any dwelling or premises or part thereof which is in a state of such construction or in such a state or so situated or so dirty or so verminous as to be injurious or dangerous to health, or which is or are liable to favor the spread of any infectious disease;
3. Any street, road or any part thereof, any stream, pool, ditch, gutter, watercourse, sink, water tank, cistern, water-closet, earth-closet, privy, urinal, cess-pool, soakaway pit, septic tank, cess-pit, soil pipe, waste-pipe, drain, sewer, garbage receptacle, dustbin, dung-pit, refuse-pit, slop tank, ash-pit or manure heap so foul or in such a state or so situated or constructed as to be offensive or to be injurious or dangerous to health;
4. Any well or other source of water supply or any cistern or other receptacle for water, whether public or private, the water from which is used or is likely to be used by man for drinking or domestic purposes or in connection with any dairy or milkshop or in connection with the manufacture or preparation of any article of food intended for human consumption, which is polluted or otherwise liable to render any such water injurious or dangerous to health;
5. Any noxious matter, or waste water, flowing or discharged from any premises, wherever situated, into any public street, or into the gutter or side channel of any street or into any nullah or watercourse, irrigation channel or bed thereof not approved for the reception of such discharge.

- (6) Any stable, cowshed or other building or premises used for keeping of animals or birds which is so constructed, situated, used or kept as to be offensive or which is injurious or dangerous to health.
- (7) Any animal so kept as to be a nuisance or injurious to health.
- (8) Any accumulation or deposit of refuse, offal, manure or other matter whatsoever which is offensive or which is injurious or dangerous to health.
- (9) Any accumulation of stones, timber, or other building material if such is likely to harbour rats or other vermin.
- (10) Any premises in such a state or condition and any building so constructed as to be likely to harbour rats.
- (11) Any dwelling or premises which is so overcrowded as to be injurious or dangerous to the health of the inmates, or is dilapidated or defective in lighting or ventilation, or is not provided with or is so situated that it cannot be provided with adequate sanitary accommodation.
- (12) Any public or other building which is so situated, constructed, used or kept as to be unsafe, or injurious or dangerous to health.
- (13) Any occupied dwelling for which such a proper, sufficient and wholesome water supply is not available within a reasonable distance as under the circumstances it is possible to obtain.
- (14) Any factory or trade premises not kept in a cleanly state and free from offensive smells arising from any drain, privy, water-closet, earth-closet, or urinal, or not ventilated so as to destroy or render harmless any impurities so far as practicable any gases, vapours, dust or other impurities generated, or so overcrowded or so badly lighted or ventilated as to be injurious or dangerous to the health of those employed therein.
- (15) Any factory or trade premises causing or giving rise to smells or effluvia which are offensive or which are injurious or dangerous to health.
- (16) Any area of land kept or permitted to remain in such a state as to be offensive, or liable to cause any infectious, communicable or preventable disease or injury or danger to health.
- (17) Any chimney sending forth smoke in such quantity or in such manner as to be offensive or injurious or dangerous to health.
- (18) Any cemetery, burial-place or place of sepulture so situated or so crowded or otherwise so conducted as to be offensive or injurious or dangerous to health.
- (19) All collections of water, sewage, rubbish, refuse, ordure, or other fluid or solid substances, which permit or facilitate the breeding or multiplication of animal or vegetable parasites of men or domestic animals, or of insects or of other agents which are known to carry such parasites or which may otherwise cause or facilitate the infection of men or domestic animals by such parasites.
- (20) Any collection of water in any well, pool, gutter, channel, depression, excavation, barrel, tub, bucket or any other article, and found to contain any of the immature stages of the mosquito.

- (21) Any cesspit, latrine, urinal, dung-pit or ash-pit found to contain any of the immature stages of the mosquito.
- (22) Any act, omission, or thing which is or may be dangerous to life, or injurious to health.

97. No by-law shall be made or amended by the Council unless and until a copy of such proposed by-law or amendment shall have been deposited at the office of the Council for inspection by any person at all reasonable times, and unless and until a notice shall have been published in some newspaper circulating in the municipality or affixed to the principal door of the municipal offices seven days prior to the meeting of the Council held for the purpose of making such by-law or amendment setting forth the general purport of the proposed by-law or amendment and stating that a copy thereof is open to inspection as aforesaid: Provided that any objection to any such proposed by-law or amendment shall be lodged with the Town Clerk within six days after the publication of the notice as aforesaid.

By-laws, how to be made

98. (1) After any by-law has been made or amended by the Council, such by-law or amendment shall be submitted to the Commissioner for Local Government for the approval of the Governor: Provided that when any objection has been lodged against any proposed by-law or amendment, and such objection has not been withdrawn, such by-law or amendment shall be submitted for the approval of the Governor in Council.

Submission of by-laws for approval

(2) Every by-law or amendment submitted for approval under the preceding sub-section shall be accompanied by-

- (a) a copy of the minutes of the meeting of the Council at which the by-law or amendment was adopted;
- (b) a certificate by the Town Clerk that the provision the last preceding section has been complied with;
- (c) copies of any objections against the adoption of the by-law or amendment which may have been lodged, in writing with the Town Clerk or if there have been lodged, a statement to that effect;
- (3) The Governor or the Governor in Council when any objection has been lodged and has not been withdrawn may approve, alter or reject any such by-law or amendment.
- (4) Upon approval by the Governor or the Governor in Council, as the case may be, of any by-law or amendment (with or without alteration thereof) such by-law or amendment shall be published in the Gazette and thereupon shall have the full force of law within the municipality.
- (5) A copy of the Gazette containing any by-law of the Council shall be evidence of the due making of such by-law and of the contents thereof.

99. The Governor may at any time, after having given to the Council reasonable notice and having heard the Council thereon, make, amend or revoke any by-law which the Council is empowered by this Ordinance to make, amend or revoke. Every by-law and every amendment or revocation under this section shall be notified to the Council by the Commissioner for Local Government and shall be published in the Gazette.

Power of Governor to make, etc. by-laws

100. The Council may, by by-law, impose a penalty for the breach of any by-law made under this Ordinance and may also impose different penalties in case of successive or continuous breaches, but no such penalty shall exceed twenty-five pounds. Any by-law may further provide that, in addition to any such penalty, any expense incurred by the Council in

Penalties for breach of by-laws

consequence of any breach of such by-law, or in the execution of any work directed by any such by-law to be executed by any person and not executed by him, shall be paid by the person committing such breach or failing to execute such work.

Prosecution for contravention of by-laws.

101. All offences against any by-law in force within the municipality shall be deemed to be offences against this Ordinance, and in any prosecution for contravening the provisions of any such by-law it shall be sufficient to allege that the accused is guilty of contravening a by-law of the Council and to allege the act constituting such contravention, describing the by-law by number.

Provision for allowing to premises holder of conviction for sale or possession of tinned food.

102. (1) Where any person is convicted a second time within a period of twelve months of having contravened any by-law by selling or exposing for sale or depositing for the purpose of sale or preparation for sale, or of having in his possession any animal or article (whether solid or liquid) intended for human consumption which is diseased or unwholesome or unfit for human consumption, the court may, if it finds that such person knowingly or wilfully committed both offences, in addition to inflicting any other punishment, order that a notice of the facts be affixed in such form and manner and for such period, not exceeding twenty-one days, as may be specified in the order to any premises occupied by such person, and may further order that such person do pay the costs of such affixing.

(2) If any person obstructs the fixing of any such notice, or removes, defaces or contrains such notice while affixed during the said period, he shall be guilty of an offence and shall, for each such offence, be liable to a fine not exceeding ten pounds.

Licences.

Notices and fees.

103. (1) The Council may impose such duties or fees as may be imposed by by-laws in respect of any trade, occupation or premises which it is empowered under this Ordinance to inspect or supervise and licence.

(2) The Council may appoint committees for the purpose of hearing any application for licences to carry on any trade or business or may itself sit to hear such applications, and the Mayor or the chairman of any committee so appointed as the case may be shall have power to summon any applicant for or any objector to the grant of a licence (by writing under his hand served on such persons) to give evidence at any sitting of the Council or a committee held for the purpose of hearing the application for such licence or to produce books or documents at such sitting, and any such person refusing or omitting without sufficient cause to attend and give evidence or to produce books or documents in his possession or under his control as required by such summons shall be guilty of an offence against this Ordinance: Provided always that every person summoned under this section to give evidence or produce books and documents shall be entitled to all the privileges to which a witness summoned to give evidence or produce books or documents before the Supreme Court is entitled.

(3) All witnesses giving evidence before the Council or a committee at the hearing of any application for such licences shall give evidence on oath which may be administered by the Mayor or the member presiding.

Power of the Council to refuse licences.

104. The Council may refuse to grant any licence to carry on any trade or business which it is empowered to grant, on any of the following grounds:—

- (a) That within the three years immediately preceding the application either the applicant or any person em-

ployed by or assisting him in his business or directly or indirectly interested therein has been convicted three times of contravening a law or by-law in force within the municipality in regard to the trade for which the licence is applied for.

(b) That the premises in question which the applicant intends to carry on his trade or business do not conform to the requirements of the Council's by-laws;

(c) That the granting of such licence would be contrary to the public interest.

Provided, however, that any applicant for a licence whose application has been refused may appeal against the Council's decision to the court of the magistrate within whose jurisdiction the premises in or on which the applicant intended to conduct his trade or business lies, and in the event of the appellant satisfying the court that the licence was refused on insufficient grounds, the court may order the Council to grant such licence and such licence shall be granted accordingly.

Provided, further, that the appellant or the Council may appeal to the Supreme Court against any such order of the magistrate and the decision of the Supreme Court shall be final.

Power of the Council to refuse by licence certain premises.

105. The Council may refuse a licence in respect of any premises as a theatre, music hall, dance hall, public hall, concert room or other place of amusement, or as a restaurant or eating house, on any of the grounds mentioned in the preceding section or on any of the following grounds:—

- (a) That the applicant has failed to produce satisfactory evidence of good character;
- (b) That the premises in respect of which the licence sought or any adjacent premises owned or occupied by the applicant are frequented by persons of bad character;
- (c) That the granting of such licence would be calculated to cause nuisance or annoyance to persons residing in the neighbourhood.

Provided, however, that the refusal of the Council to grant any licence on any of the grounds mentioned in this section shall be subject to the same right of appeal as is provided in the last preceding section.

Listing of offensive trades.

106. (1) No person shall, without having first obtained from the Council a licence for that purpose, carry on within the municipality the work or trade of a knacker or of blood-boiling or cleaning, tallow melting, fat melting or fat extracting, fell mongering, skin storing, skin curing, blood drying, gut-scraping, fish mongering, fish frying, leather dressing, tanning, glue making, size making, charcoal burning, brick burning, lime burning, manure making, manure stirring, bone storing, or any other work or trade of an offensive nature which the Council may, with the sanction of the Governor, declare to be an offensive trade for the purposes of this section.

(2) Any person who shall carry on any such work or trade without having first obtained the required licence from the Council shall be guilty of an offence and shall be liable to a fine not exceeding fifty pounds and to a further fine not exceeding two pounds in respect of every day during which such offence shall continue after notice to cease such offensive work or trade has been served upon such person by the Council.

(9) Before considering any application for any licence under this section the Council may require the applicant to pay the cost of advertising fully particulars of his application in such manner and for such period as the Council may think fit.

(4) The Council may refuse to grant any licence under this section on any of the grounds mentioned in section 104 of this Ordinance or on any of the following grounds:—

(a) That the premises used or proposed to be used by the applicant for the work or trade for which the licence is sought are unsuitable for the purpose;

(c) That the methods adopted or proposed to be adopted by the applicant for preventing noxious or offensive vapours, gases or smells arising from such work or trade are not efficient.

Provided, however, that the refusal of the Council to grant any such licence on any of the grounds mentioned in this section shall be subject to the same right of appeal as is provided in section 104 of this Ordinance.

107. The Council may refuse to grant a licence to the hauler of a rickshaw who is medically or physically unfit or who has failed to pass any test of efficiency or to deposit any security as may be required by law.

108. On the conviction of any person holding a trade licence granted by the Council for any contravention of the law of the Council or the laws relating to the conduct of such trade, the magistrate before whom such person is convicted may, on the application of the Council, cancel or suspend his licence and order that no new licence to carry on such trade within the same municipality shall be granted to such person for a period not exceeding one year from such conviction, and thereupon such person shall become disqualified to hold a licence during such period of cancellation or suspension.

PART VI

FINANCIAL PROVISIONS

109. Save as otherwise expressly provided, the provisions of this Part of this Ordinance shall apply to every Municipal Council and every Municipal Board constituted by or under this Ordinance.

Provided that the terms "Council" and "Mayor" shall, in the case of a municipality under the jurisdiction of a Municipal Board, be deemed to refer, respectively, to the Board and to the Chairman of the Board.

Revenue and Borrowing Powers.

110. The revenue of the Council shall include:—

- (a) All rates levied by the Council;
- (b) All moneys derived from licences issued by the Council and all market dues and pound fees;
- (c) One-half of all fines imposed by any competent court in respect of any contravention of the provisions of this Ordinance or of any by-laws made thereunder;
- (d) All charges or profits arising from any trade, service or undertaking carried on by the Council under the powers vested in it;

(5) Proceeds of sale of by-products.

(f) All other fees, charges, dues and rents recoverable by the Council or to which the Council is entitled under this Ordinance or any other law.

(g) Interest on moneys invested by the Council, except where special provision is made in regard thereto under this Ordinance or any other law.

(h) Government contributions (if any).

111. (1) All moneys due for sewerage, sanitary and refuse removal services shall be recoverable from the owner and occupier jointly and severally of the premises in respect of which the services were rendered: Provided that the owner shall, in the absence of any agreement to the contrary, be entitled to recover from the occupier of the said premises for the time being any such charges paid by him in respect of the occupation of such charges.

(2) When any charges due in respect of any premises for sewerage, sanitary or refuse removal services shall remain unpaid for a period of six weeks after the date on which written notice shall have been given by the Council to the owner or occupier of his indebtedness, the Council may, at any time within twelve months after such date, proceed jointly and severally against the owner and occupier for the time being of such premises for the amount of such charges or any part thereof, and may recover the same from such owner or occupier. Provided that such occupier shall be entitled to deduct from any rent or other amount payable by him to the owner of the premises any portion of charges paid by or recovered from him under this Ordinance which the owner could not lawfully have required him to pay and the production of the receipts for such portion of such charges so paid or recovered from such occupier shall be a good and sufficient discharge for the amount so paid or recovered as payment of rent or other amount.

(3) The Council may charge and recover interest on arrear charges for sewerage, sanitary and refuse removal services at a rate not exceeding one per centum per month or part of a month.

112. (1) No transfer of any premises within a municipal palty shall be passed or registered before any registration officer until a written statement in the form shown in the Fourth Schedule to this Ordinance, and signed and certified by the Town Clerk or other officer authorised thereto by the Council, shall be produced to such registration officer, nor unless such statement shows:—

(a) that all charges for a period of three years immediately preceding the date of application for transfer due in respect of such premises for sewerage, sanitary and refuse removal services, and lawfully imposed under this Ordinance or any by-laws made thereunder, and

(b) that all charges (if any) for a period of three years immediately preceding such date due in respect of such premises on account of rates imposed under any enactment for the time being in force within the municipality; and

Power to refuse licences to rickshaw haulers

Provision for cancellation of licence on conviction

Application and interpretation

Revenue of the Council

Recovery of sanitary rates

Payment of rates, taxes, and other charges before transfer of premises.

(c) that all sums (if any) due on account of any expenses incurred or advances made by the Council under the provisions of this Ordinance, have been paid to the Council.

(2) The Town Clerk or other officer authorised thereto by the Council is hereby required to give the said statement on the demand of the owner of the premises or his attorney or agent, upon payment by him of all charges due as aforesaid and of a charge to be fixed by resolution of the Council not exceeding two shillings for each such statement.

118. (1) This section shall apply only to the municipalities of Nairobi and Mombasa.

(2) There shall be paid to the Council and Board respectively, from the general revenue of the Colony, an annual contribution in lieu of rates for each and every financial year as hereinafter provided, that is to say:—

(a) In respect of all rates imposed by the Council or Board, as the case may be, upon the unimproved value of land under the provisions of any enactment for the time being in force (except special rates hereinafter referred to), a contribution calculated upon the unimproved value of Crown land as shown by the valuation made under such enactment at the same percentage or amount in the pound as rates imposed by the Council or Board for the same financial year upon the unimproved value of privately owned land;

(b) In respect of all rates imposed by the Council or Board, as the case may be, upon the value of improvements under the provisions of any such enactment as aforesaid, a contribution bearing the same proportion to the total amount chargeable as rates upon privately owned improvements as the contribution payable under paragraph (a) on the unimproved value of Crown land bears to the total amount chargeable as rates upon the unimproved value of privately owned land;

Provided that the total contribution payable for any financial year (excluding contributions in respect of special rates hereinafter referred to) shall not exceed two per centum of the total unimproved value of Crown land as shown by the aforesaid valuation.

(3) In addition to the contributions payable under the last preceding sub-section, there shall be payable, in respect of all special rates imposed by the Council or Board, as the case may be, upon a particular area or areas of the municipality under any such enactment as aforesaid, a contribution calculated upon the unimproved value of Crown land situate within such area or areas as shown by the aforesaid valuation at the same percentage or amount in the pound imposed by the Council or Board in respect of such special rates upon the unimproved value of privately owned land.

(4) Contributions under the preceding sub-sections shall become due upon the dates fixed by the Council or Board, as the case may be, for the payment of the rates in respect of which such contributions are payable, and, upon the Council or Board passing a resolution to increase any rate, such Council

Government contributions.

Contributions in lieu of rates.

Contributions in lieu of special rates.

Contributions when payable.

or Board shall forward to the Commissioner for Local Government a copy of such resolution certified by the Town Clerk together with a statement of the contribution payable in respect thereof.

(5) The Governor may advance to the Council or Board, in anticipation of rates to be levied, any sum not exceeding three-fourths of the estimated total contribution payable in respect of such rates, and any sum so advanced shall be free of interest and shall be deducted from the contribution payable in respect of such rates: Provided that no such advance shall be made in any financial year in respect of contributions on account of rates to be levied in any succeeding financial year.

(6) There shall also be paid annually to the Council and Board, respectively, from the general revenue of the Colony:—

(a) (i) A grant of one-half of the cost of construction, reconstruction and maintenance of such roads within the municipality as the Governor may, on the advice of the Central Roads Board established under section 130 of this Ordinance, classify as main trunk and main district roads, subject, however, to the standard of construction, reconstruction and maintenance proposed by the Council or Board as the case may be being approved by the Central Roads Board and to provision being made in the annual estimates of the Council or Board for the recovery of the remaining one-half for, where such one-half is to be met from loan funds, for the recovery of the interest and loan charges out of rates imposed on the public; and the Council or Board, as the case may be, shall cause a special account to be kept of expenditure incurred on construction, reconstruction and maintenance of such main trunk and main district roads and, where any question shall arise as to the correctness or advisability of any charge against such special account, the decision of the Governor or Council shall be final.

(ii) A sum which is equivalent to one-half of the revenue collected by Government under the provisions of the Motor Traffic Ordinance or any enactment amending or replacing the same in respect of motor vehicles belonging to persons having a residence or place of business within the municipality where such vehicles are ordinarily housed or kept: Provided, however, that no such sum shall be payable unless and until the Council or Board, as the case may be, shall have exercised its powers under sub-section (4) of section 95;

(iii) A sum which is equivalent to one third of the annual emoluments of the Town Clerk, the Town Treasurer and the Town Engineer, respectively, appointed in accordance with the provisions of this Ordinance;

(d) A sum which is equivalent to one-half of the annual emoluments of the Medical Officer of Health and of all qualified sanitary inspectors appointed in accordance with the provisions of this Ordinance;

(e) A sum which is equivalent to one-half of any expenditure incurred by the Council or Board, as the case may be, in connection with outbreaks of infectious diseases, subject, however, to the approval by the Governor of the details of such expenditure.

Advances in anticipation of rates.

Additional grants.

Cap 22

Grant in aid of public health.

(7) There shall also be paid to the Council and Board, respectively, from the general revenue of the Colony, in respect of expenditure incurred upon public health by such Council or Board, a diminishing grant of such amount annually and for such period of years as may be determined by the Governor in each case.

Payment for municipal services.

(8) Payment for all municipal services rendered in Government offices shall be made on the same basis as if such services had been rendered to private premises.

Borrowing powers.

112. (1) The Council may from time to time, by a 10 majority of the councillors present at a meeting specially convened for the purpose, at which the majority voting shall not be less than a majority of the whole Council, raise loans in such amounts and on such conditions as may be allowed by the Governor with the approval of the Secretary of State. 15

(2) Such loans shall be secured on the property and revenues of the Council, including any lands which may be specially placed at the disposal of the Council under the provisions of any law: Provided, however, that this sub-section shall not be deemed to confer any power to alienate such lands 20 other than is conferred by such law.

(3) Where any such loan shall be raised by means of stock, the provisions of any borrowing powers Ordinance which may be applicable and in force for the time being with regard to the issuing of stock, the provision to be made for payment 25 of interest thereon, for the redemption thereof at the time or times fixed for repayment, and the proceedings to be taken in case of default, shall apply.

(4) If at any time any interest due on any loan (other than stock) shall remain unpaid for three months after demand therefor in writing has been lodged with the Town Clerk by the person entitled thereto or by his duly authorised Representative, application may be made by such person or 30 his representative to the Supreme Court for the appointment of a receiver of the property and revenues on which the loan is secured.

(5) On the hearing of such application the Court may make such order and give such directions as under the circumstances shall seem expedient for the raising and payment 40 of the moneys due. In particular, the Court may order that a rate or rates of such amount or amounts as it may fix be levied upon all rateable property within the municipality; and such rate so ordered shall have the same incidence as any rate imposed by the Council and may be enforced in like manner, and the proceeds thereof shall be paid into Court or otherwise 45 as the Court shall direct.

(6) If at any time default be made in the repayment of any loan or of any instalment thereof after a period of thirty days from the date on which such loan or instalment shall have become repayable, the like proceedings may be instituted 50 on the application of the person to whom such repayment shall be due or his duly authorised representative.

(7) The Court, on such application, in addition to any order which it is empowered to make under sub-section (5) of this section, may, if it shall think fit, order the sale of any 55 property on which the loan may be secured, subject always to the provisions of any law as regards the alienation of any land vested in the Council under such law.

116. (1) The Council may from time to time obtain Advances from Government advances of moneys required for the proper carrying out of the provisions of this Ordinance. ^{Government and advances.}

(2) The Council may obtain advances from any bank by way of overdraft in such amounts and on such conditions as may be approved by the Governor.

(3) All moneys so advanced, and the interest thereon (if any), shall constitute a liability of the Council and shall be a charge on the property and revenues, present and future, of the Council; and the provisions of the last preceding section for the security of such advances and for the recovery thereof shall apply in all respects as if such advances were loans raised under the provisions of the said section.

116. Save when any loan or advance by way of overdraft 15 has been authorised as aforesaid, no person or bank lending money to the Council shall have any remedy or right whatsoever to recover such loan or advance from the Council: Provided that, if the Council borrows any money which it is not legally bound to repay, all the members who have joined in 20 authorising the borrowing of such money shall be jointly and severally liable to repay the amount so borrowed and all interest thereon, and the same may be recovered from them by action in any competent court. ^{Illegal borrowing.}

117. (1) It shall be the duty of the Council to frame 25 regulations providing for the annual setting aside by the Council of moneys to create adequate reserve funds to provide for the entire or partial replacement of assets of the Council which owing to depreciation or other cause will require at some future date to be replaced, and providing for the investment 30 such funds. Such regulations shall be submitted for approval of the Governor who may approve the same with or without modification, and when approved, shall be published in the Gazette: Provided that if the Council shall fail to frame such regulations and to submit the same for approval as 35 aforesaid within a period of twelve months from the date on which the Governor shall require the Council so to do, such regulations may be made by the Governor.

(2) The Council shall pay annually out of its revenue into the reserve funds so created such contributions as are 40 required by regulations made under this section, and no such moneys or any part thereof shall, without the sanction of the Governor, be used either permanently or temporarily for any purpose other than the purposes for which they have been contributed. All interest or other revenue derived from such 45 reserve funds shall be paid into and become part of such funds.

Accounts and Audit.

118. (1) The Council shall cause proper books and 50 accounts to be provided and true and regular records to be entered therein of all transactions of the Council, and such books and accounts shall be open to the inspection of any member of the Council, ratepayer or creditor of the municipality, without fee or reward. Any such person may make copies of or extracts from such books or accounts. ^{Accounts to be kept.}

(2) All such books and accounts shall, in order to provide 55 for the production of comparative statements of revenue, expenditure, cost, and general uniformity in the accounts of local authorities, be kept in such form and manner as the Commissioner for Local Government may direct.

Financial year statement of accounts

119. (1) For the purposes of this Ordinance the financial year shall be the twelve months ending on and including the thirty-first day of December of each and every year.

(2) The accounts of the Council shall, as soon as may be, be balanced for the preceding financial year and an annual statement or abstract thereof shall be prepared. Copies of such annual statement or abstract, and of the inspector's report made under section 121, shall be laid before the Council not later than at its first ordinary meeting in the month of May following, and shall be delivered to any inhabitant of the municipality on application and on payment of the fee, if any, prescribed by resolution of the Council.

(3) Such annual statement or abstract shall be prepared in such form and shall contain such information as the Commissioner for Local Government may require, and such portions thereof or extracts therefrom, together with such portions or extracts from the inspector's report, as the Commissioner for Local Government may direct, shall be published in one or more newspapers (if any) circulating in the municipality.

Annual estimates to be framed by the Council

120. (1) Not less than fourteen days before the expiry of a financial year, the Finance Committee shall present for the approval of the Council detailed estimates of the revenue and expenditure of the Council for the next financial year.

(2) A summary of such annual estimates shall be published in the Gazette and in one or more newspapers (if any) circulating in the municipality at least fourteen days prior to the date of the meeting of Council at which such estimates are presented for the approval of the Council, and a copy of such annual estimates shall be delivered to any inhabitant of the municipality on application and on payment of the fee, if any, prescribed by resolution of the Council.

Special provisions for Municipal Councils

(3) In the case of any municipality constituted under the jurisdiction of a Municipal Council, the Council shall, before the commencement of each financial year, submit a copy of such annual estimates as approved by the Council to the Commissioner for Local Government together with a statement of the rates proposed to be levied for such financial year and an estimate of the amount of the contribution payable to Government in respect thereof. Any revised or supplementary estimate of revenue and expenditure approved by the Council shall be submitted in like manner, together with a statement of any proposed alteration in the rates to be imposed and an estimate of the revised contribution, if any, payable by Government. Provided, however, that this sub-section shall not come into operation in the municipality of Nairobi for a period of five years from the commencement of this Ordinance. During the period aforesaid the estimates of the municipality of Nairobi shall be dealt with in the manner prescribed by the next succeeding sub-section, and the term "Board" shall, when used in the said sub-section, be deemed to refer to the Nairobi Municipal Council.

Special provisions for Municipal Boards

(4) In the case of any municipality constituted under the jurisdiction of a Municipal Board, the Board shall, before the commencement of each financial year, submit a copy of such annual estimates as approved by the Board to the Commissioner for Local Government for approval by the Governor in Council, and when so approved an abstract thereof shall be published in the Gazette. The Board shall not incur any expenditure which has not been included in such approved estimates except with the sanction of the Governor in Council. Provided that reallocations of expenditure within the limits of

the approved estimates which shall not increase or decrease any one item of expenditure by more than one hundred pounds may be made by the Board. Any revised or supplementary estimates approved by the Board shall be submitted for the approval of the Governor in Council.

(5) For the purpose of approval under the last preceding sub-section all annual, revised or supplementary estimates shall be prepared in such form and shall contain such detailed information as the Commissioner for Local Government may require.

(6) A copy of all annual, revised or supplementary estimates as approved in accordance with this section shall be recorded in the minutes of the Council or Board, as the case may be.

121. (1) The Governor shall appoint one or more persons, being officers of the public service, from time to time to inspect, examine and report upon the accounts and records of the Council, and the Council shall, by the Town Clerk or other officer authorised by the Council, produce and lay before the person or persons so appointed (in this Ordinance referred to as "the inspector") all books and accounts of the municipality together with all vouchers, papers and writings relating thereto.

(2) It shall be the duty of the inspector to certify, not less than once in each financial year, whether or not—

(a) the accounts of the Council are in order;

(b) separate accounts of all trading undertakings have been kept;

(c) the accounts issued present a true and correct view of the financial position of the Council, of its transactions, and of the results of trading;

(d) due provision has been made on account of redemption and repayment of all moneys borrowed by the Council;

(e) the value of the assets of the municipality have been fairly stated;

(f) the amounts set aside for depreciation and renewal of the assets of the municipality are adequate and in accordance with regulations framed under section 117.

(3) If any of the requirements and recommendations have been complied with and carried out.

(4) The inspector in his report shall state his opinions and observations upon all questions arising out of the certificate given by him under the last preceding sub-section, and upon all matters affecting the economical and efficient administration and conduct of municipal services, which in his opinion call for special notice, and shall in such report draw attention to all cases in which it shall appear to him that the provisions of this Ordinance or any other law have not been carried out or that any acts, matters or things have been performed or carried out without due authority.

(5) The Town Clerk shall, immediately upon the receipt of the inspection report or reports or copies thereof, submit the same to the Mayor and or Chairman of the Finance Committee and thereafter shall lay the same before the Council at its next ensuing meeting.

(Financial year, statement of accounts)

119. (1) For the purposes of this Ordinance the financial year shall be the twelve months ending on and including the thirty-first day of December of each and every year.

(2) The accounts of the Council shall, as soon as may be, be balanced for the preceding financial year and an annual statement or abstract thereof shall be prepared. Copies of such annual statement or abstract, and of the inspector's report made under section 121, shall be laid before the Council not later than at its first ordinary meeting in the month of May following, and shall be delivered to any inhabitant of the municipality on application and on payment of the fee, if any, prescribed by resolution of the Council.

(3) Such annual statement or abstract shall be prepared in such form and shall contain such information as the Commissioner for Local Government may require, and such portions thereof or extracts therefrom, together with such portions or extracts from the inspector's report, as the Commissioner for Local Government may direct, shall be published in one or more newspapers circulating in the municipality.

120. (1) Not less than fourteen days before the expiry of any financial year the Finance Committee shall present for the approval of the Council detailed estimates of the revenue and expenditure of the council for the next financial year.

(2) A summary of such annual estimates shall be published in the Gazette and in one or more newspapers (if any) circulating in the municipality at least fourteen days prior to the date of the meeting of Council at which such estimates are presented for the approval of the Council, and a copy of such annual estimates shall be delivered to any inhabitant of the municipality on application and on payment of the fee, if any, prescribed by resolution of the Council.

(3) In the case of any municipality constituted under the provisions of a Municipal Council, the Council shall, before the commencement of each financial year, submit a copy of such annual estimates as approved by the Council to the Commissioner for Local Government together with a statement of the rates proposed to be levied for such financial year and an estimate of the amount of the contribution payable by Government in respect thereof. Any revised or supplementary estimate of revenue and expenditure approved by the Council shall be submitted in like manner, together with a statement of any proposed alteration in the rates to be imposed and an estimate of the revised contribution, if any, payable by Government. Provided, however, that this sub-section shall not come into operation in the municipality of Nairobi for a period of five years from the commencement of this Ordinance. During the period aforesaid the estimates of the municipality of Nairobi shall be dealt with in the manner prescribed by the next sub-section and the term "Council" shall when used in the said sub-section be deemed to refer to the Nairobi Municipal Council.

(4) In the case of any municipality constituted under the provisions of a Municipal Board, the Board shall, before the commencement of each financial year, submit a copy of such annual estimates as approved by the Board to the Commissioner for Local Government for approval by the Governor in Council, and when so approved an abstract thereof shall be published in the Gazette. The Board shall not incur any expenditure which has not been included in such approved estimates, except with the sanction of the Governor in Council. The total revenue and expenditure within the limits of

Annual estimates to be laid before the Council

See also Municipal Ordinance No. 119 of 1927

Municipal Ordinance No. 119 of 1927

the approved estimates which shall not increase or decrease any one item of expenditure by more than one hundred pounds may be made by the Board. Any revised or supplementary estimates approved by the Board shall be submitted for the approval of the Governor in Council.

(5) For the purpose of approval under the last preceding sub-section all annual, revised or supplementary estimates shall be prepared in such form and shall contain such detailed information as the Commissioner for Local Government may require.

(6) A copy of all annual, revised or supplementary estimates as approved in accordance with this section shall be recorded in the minutes of the Council or Board, as the case may be.

121. (1) The Governor shall appoint one or more persons being officers of the public service, from time to time to inspect, examine and report upon the accounts and records of the Council, and the Council shall, by the Town Clerk or other officer authorized by the Council, produce and lay before the person or persons so appointed (in this Ordinance referred to as "the inspector") all books and accounts of the municipality together with all vouchers, papers and writings relating thereto.

(2) It shall be the duty of the inspector to certify, not less than once in each financial year, whether or not—

- (a) the accounts of the Council are in order;
- (b) adequate accounts of all trading undertakings have been kept;
- (c) the accounts hence present a true and correct view of the financial position of the Council, of its transactions, and of the results of trading;
- (d) due provision has been made on account of debts and repayment of all moneys borrowed by the Council;
- (e) the value of the assets of the municipality have been fairly stated;
- (f) the amounts set aside for depreciation and renewal of the assets of the municipality are adequate and in accordance with regulations framed under section 117;
- (g) all his requirements and recommendations have been complied with and carried out.

(3) The inspector in his report shall state his opinions and observations upon all questions arising out of the certificate given by him under the last preceding sub-section and upon all matters affecting the economical and efficient administration and conduct of municipal services which in his opinion call for special notice, and shall in such report draw attention to all cases in which it shall appear to him that the provisions of this Ordinance or any other law have not been carried out or that any acts, matters or things have been performed or carried out without due authority.

(4) The Town Clerk shall, immediately upon the receipt of the inspection report or reports or copies thereof, submit the same to the Mayor and/or Chairman of the Finance Committee and thereafter shall lay the same before the Council at its next ensuing meeting.

Assets of the accounts, etc. of the Council.

(6) The Council shall pay to the Governor, within three months from the date of the signing and certifying by the Inspector of the accounts of the Council for any financial year, such sum as the Governor may from time to time determine, not being more than one per centum of the total expenditure of the Council which has been brought to account and certified by the Inspector for that financial year. Provided that where, for the purpose of an effective audit, the accounts of the municipality require to be completed, adjusted or balanced by the Inspector a proportionately higher fee, as the Governor 10 may determine, shall be charged and paid.

Inspector's power to surcharge

122. (1) The Inspector shall disallow every payment made without due authority according to law, and shall surcharge the same on the person or persons making or authorising the illegal payment, and shall charge against any person or persons responsible therefor the amount of any deficiency or loss occasioned by the negligence or misconduct of such person or persons or of any sum which ought to have been brought to account by any such person or persons, and shall in every case certify the amount due from such person or persons. 20

(2) For the purposes of this section the persons making or authorising any illegal payment shall include all members of the Council and of any committee thereof who were present at the meeting of the Council or committee at which such payment was authorised and who did not cause their votes against the resolution authorising such payment to be recorded in the minutes. 25

(3) An appeal shall lie to the Supreme Court from any decision of the Inspector under this section, or the person surcharged may, in lieu of such appeal, appeal to the Governor whose decision shall be final. 30

(4) Every sum certified by the Inspector, or found on appeal, to be due from any person under this section shall be paid into the fund from which it was taken within thirty days from the date of the Inspector's certificate or decision on appeal, as the case may be, and if such sum is not so paid the Inspector shall recover the same from the person surcharged in any competent court, and shall be paid by the Council his reasonable costs and expenses incurred in such proceedings. 35

(5) In any proceedings for the recovery of such sum the Inspector's certificate shall be conclusive evidence that the sum is due and payable by the person charged. 40

(6) On the production of such certificate the court shall award costs for the sum sued for, and every such decree shall have the effect of a decree under the Civil Procedure Code (Cap. 101) and any Rules made thereunder. 45

power of court to take evidence

123. For the purpose of any examination under the provisions of section 122 the Inspector may hear and receive evidence and examine witnesses upon oath (which with the Inspector is hereby empowered to administer), and may, on summons under this Part, require all such persons as he may think fit to appear personally before him at a time and place to be stated in such summons and to produce all such books and papers including the minutes of the proceedings of the Council or of any committee thereof as may be necessary for such examination. 50

(2) Any person so required who, without reasonable excuse, neglects or refuses to comply with the tenor of such summons, or

- (b) having appeared, refuses to be examined on oath or to take such oath; or
- (c) having taken such oath, refuses to answer such questions as are put to him;

5 shall be guilty of an offence and shall be liable for every such neglect or refusal to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding six months.

PART VII

10 ESTABLISHMENT OF CENTRAL AUTHORITY AND ORGANISATION FOR LOCAL GOVERNMENT PURPOSES.

124. (1) The Governor shall appoint an officer to be Commissioner for Local Government who shall perform the duties prescribed to be performed by him under this Ordinance. The Commissioner shall also be responsible for conducting all correspondence with Municipal Councils and Municipal Boards and for dealing with all matters which require to be referred by such Councils or Boards to the Governor. He shall administer all Government contributions to Municipal Councils and Municipal Boards and shall conduct all the business of the Standing Departmental Committee and Central Roads Board established under this Ordinance. 15

Appointment of Commissioner for Local Government and Municipal and Town Planning Engineer

(2) The Governor shall appoint an officer to be Municipal and Town Planning Engineer whose duties shall be to advise the Governor as to the exercise of his powers of control over municipal works, to inspect the works of Municipal Councils and Municipal Boards, to advise on the main trunk and main district roads, to advise and advise Municipal Councils and Boards in the preparation of town planning schemes, of sewerage, drainage, water supply and other municipal works, and in the preparation of by-laws relating thereto, and to undertake such other duties as may be directed by the Commissioner for Local Government. 20

125. (1) There shall be established a Standing Departmental Committee for Local Government (in this Ordinance referred to as "the Standing Committee") to advise the Governor in regard to all matters relating to local government and to perform the duties imposed upon it by this Ordinance or by any other enactment relating to local government for the time being in force. 25

Standing Committee for Local Government

- (2) The Standing Committee shall consist of:
 - (a) The Colonial Secretary as Chairman;
 - (b) The Commissioner for Local Government as Deputy Chairman;
 - (c) The Director of Medical and Sanitary Services;
 - (d) The Deputy Director of Sanitary Services;
 - (e) The Municipal and Town Planning Engineer;
 and such other person or persons as the Governor may from time to time appoint. 30

(3) In the absence from any meeting of both the Chairman and Deputy Chairman the members present shall elect one of their number to preside at such meeting. 35

(4) The member presiding and three other members shall form a quorum. 40

Functions of Standing Committee.

126. The Standing Committee shall advise upon all by-laws submitted for approval by Municipal Councils and Municipal Boards and upon all matters in regard to which the approval of the Governor or the Governor in Council is required under this Ordinance or in regard to which the Governor is empowered to make rules, regulations or by-laws under this Ordinance, and shall perform all such functions as are vested in the Committee by virtue of the Public Health (Amendment) Ordinance, 1925.

Reports to be rendered by Council and Board.

127. (1) It shall be the duty of every Municipal Council and Municipal Board constituted by or under this Ordinance to render to the Commissioner for Local Government, not later than the thirty-first day of March in each year, a report of the work of the Council or Board, as the case may be, and of the affairs of the municipality for the preceding financial year.

(2) Such report shall be rendered in such form as may be directed by the Commissioner for Local Government, and shall be accompanied by such statistics as the Commissioner may require.

(3) A copy of such report shall be delivered by the Town Clerk to the Mayor of the municipality on application and to persons of the law if any, presented by resolution of the Council or Board.

Minutes of Council and Board.

128. It shall be the duty of every Municipal Council and Municipal Board to furnish to the Commissioner for Local Government a certified copy of any record or minutes of its proceedings and of the proceedings of any committee appointed by the Council or Board, and of a record of any accounts of the Council or Board, and such reports, statistics and documents as the Commissioner for Local Government may from time to time require.

Minutes of the proceedings of each meeting of the Council or Board or of a committee thereof shall be forwarded within ten days after the date upon which such minutes were adopted as prescribed by this Ordinance or any by-law made thereunder.

Annual Report.

129. It shall be the duty of the Commissioner for Local Government to render to the Governor, not later than the thirtieth day of June in each year, a comprehensive report upon the affairs and activities of all Municipal Councils and Municipal Boards constituted by or under this Ordinance.

Central Roads Board.

130. There shall be established a Central Roads Board for the purpose of advising the Governor upon the matters mentioned in the next succeeding section of this Ordinance and for the performance of all such other duties as may be imposed upon it under this Ordinance or by any other enactment for the time being in force.

(2) The Central Roads Board shall consist of

- (a) The Colonial Secretary as Chairman;
- (b) The Commissioner for Local Government as Deputy Chairman;
- (c) The Director of Public Works;

(d) The Roads Engineer of the Public Works Department.

and such other persons, not being less than three, as the Governor may from time to time appoint.

(3) In the absence from any meeting of both the Chairman and Deputy Chairman the members present shall elect one of their number to preside at such meeting.

(4) The member presiding and four other members shall form a quorum.

131. (1) It shall be the duty of the Central Roads Board to advise the Governor upon the following matters:—

Functions of Central Roads Board.

(a) The contributions payable from the general revenue of the Colony under section 113 of this Ordinance in respect of the construction, reconstruction and maintenance of roads;

(b) The classification of roads in respect of which such contributions are payable;

(c) All grants to any Municipal Council or Municipal Board in respect of the construction, reconstruction or maintenance of roads;

(d) All other matters concerning roads in municipalities.

(2) The Central Roads Board shall control any plant which may be placed at its disposal for the purpose of hire to any Municipal Council or Municipal Board, and shall prescribe charges for the hire of such plant, and shall do all other things necessary in regard to the conditions of hire of such plant.

PART VIII

SPECIAL POWERS OF THE GOVERNOR.

132. (1) Pending the first election of members of the Municipal Council or Municipal Board, as the case may be, for any municipality constituted by or under the provisions of this Ordinance, the Governor may, by proclamation, nominate and appoint such number of fit and proper persons as he shall select, not being less than ten, to form a Council or Board, as the case may be, with jurisdiction over any area which under this Ordinance—

Governor's power to nominate in certain circumstances.

- (a) has been constituted a municipality; or
- (b) has been severed from a municipality (of which it formed part) and constituted a separate municipality.

(2) Every such nominated Council or Board shall exercise all or any of the powers and authorities and shall carry out the duties conferred or imposed on a Municipal Council or Municipal Board, as the case may be, by this Ordinance or under any other enactment, and shall be subject to the obligations attaching to the exercise thereof.

(3) The period of office of every such nominated Council or Board shall be from the date of the proclamation aforesaid until the date upon which a Municipal Council or Municipal Board, as the case may be, shall be duly constituted in accordance with the provisions of this Ordinance, and upon such latter date such nominated Council or Board shall be deemed to be dissolved.

Miscellaneous

Conduct of prosecutions.

142. The Town Clerk or any other person authorised thereto by the Council or Board, as the case may be, may prosecute in subordinate courts for all contraventions of this Ordinance or of any by-laws, and the provisions of any law relating to prosecutions by private persons shall apply to all such prosecutions.

Powers of arrest

143. Any police officer may arrest without warrant any person who commits any offence against this Ordinance or any by-law in force within any municipality, and any officer of the Council or Board, as the case may be, in uniform or wearing a visible badge of office and authorised thereto in writing by the Council or Board, may arrest without warrant any person who in his presence commits any such offence and may detain such person until he can be delivered into the custody of a police officer to be dealt with according to law.

Provided that no person shall be arrested or detained without warrant unless reasonable grounds exist for believing that, except by the arrest of the person offending, he could not be found or made answerable to justice without delay, and the cost of expenses.

Persons offending against order or notice to be deemed guilty of an offence.

144. Where any matter or thing is by this Ordinance or by any order or notice made and published under the authority thereof, directed or prohibited to be done, or where any authority is given by this Ordinance to any person to direct or prohibit any matter or thing to be done, and such act so directed to be done remains undone or such act so prohibited to be done is done, then in every such case every person offending against such direction or prohibition shall be deemed to be guilty of an offence against this Ordinance.

Books and registers

145. The books and registers of any Municipal Council or Municipal Board and any extracts therefrom certified by the Town Clerk or other officer authorised thereto by such Council or Board shall be evidence for the recovery of any arrears of rates, sanitary or refuse removal fees, or charges for the supply of water or electricity, or for any other municipal purpose, and shall be prima facie evidence of the amounts so due.

Contravention of Ordinance by company or partnership.

146. If any contravention of this Ordinance or of any by-law is committed by a company or partnership, every director or partner having the management or control of the business of the company or partnership at the time of the offence shall be deemed to be guilty thereof, and every such person and each partner in the company or partnership shall be responsible therefor, and shall be liable to the punishment prescribed for such contravention.

Provided that no person shall be deemed to be liable for any offence under this section if he is shown to be a person party to any such offence.

147. A fine may be levied against any Municipal Council or Municipal Board for any offence committed by it within six months from the date of the offence, or if the offence is a continuing one, and if the Council or Board is unable to pay the same, the Council or Board shall be liable to be proceeded against as if it were a company or partnership, and any such action or under the provisions of this Ordinance may be paid out of the revenues of the Council or Board.

148. (1) Any Council or Board or any officer of any Council or Board duly authorised in writing may, at all reasonable times, enter into and upon any premises within this municipality for the purpose of examining any powers of inspection, inquiry, or execution of works which is given to the Council or Board under this Ordinance or by any by-law or regulation in force within the municipality.

(2) The Medical Officer of Health or any sanitary inspector may, when entering into or upon any premises for exercise of the powers conferred by this section, be accompanied by a European member of the police force.

(3) Any by-law made under this Ordinance may confer on the Council or Board, its officers and servants, such powers of inspection, inquiry, and execution of works as may be reasonably necessary for the proper carrying out or enforcement thereof.

149. The following persons shall be liable to a fine not exceeding twenty pounds or to imprisonment of either description for a period not exceeding three months:

- (a) Any person who wilfully obstructs any member of any Council or Board or any officer or servant of a Council or Board in the execution of his duty as such;
- (b) Any occupier of premises who prevents the owner of such premises from complying with any of the requirements of a Council or Board;
- (c) Any occupier of premises who, on demand, refuses or wilfully omits to disclose or wilfully misstates the name of the owner of such premises;
- (d) Any person who refuses to answer to the best of his ability or knowingly makes false answers to inquiries made by the Medical Officer of Health or any sanitary inspector specially authorised by him in writing for the purpose of discovering cases of any infectious disease or possible sources of infection of any such disease.

150. Nothing in this Ordinance shall be deemed to override the provisions of the Public Health Ordinance or any Ordinance amending or replacing the same.

151. The Municipal Corporations Ordinance (Chapter 84 of the Revised Edition) is hereby amended:

- Provided that—
- (1) All by-laws made under the said Ordinance shall be deemed to be by-laws under this Ordinance and shall continue to be of full force and effect within the area to which they apply until altered or revoked under this Ordinance;
- (2) All appointments made, powers conferred and notifications served or published under the said Ordinance shall be deemed respectively to have been made, conferred, served and published under this Ordinance;

SECOND SCHEDULE
NAIROBI MUNICIPALITY.
EUROPEAN WARDS.

(A) The Town Ward.

Commencing at the intersection of the Kiunga Road with the Mathari River;

thence bounded by that river down-stream to its intersection with the eastern boundary of Sub-division No. 62 of L.O. No. 214 (Mudaga);

thence northerly by that boundary to the Fort Hill Road;

thence south-westerly by that road to its junction with the Kiunga Road;

thence northerly by the latter road to its intersection with the Gataumbi River;

thence by that river down-stream to its intersection with the eastern boundary of L.O. No. 229;

thence by the eastern and part of the southern boundary of that portion to the intersection of the latter with the eastern boundary of L.O. No. 206 (Rasthanga);

thence by the eastern and eastern boundary of that portion to its junction with the Mathari River;

thence by the eastern boundary of L.O. No. 207 and L.O. No. 210 (Kotere) (Kilimani) to the intersection of the latter with the said river;

thence by that river down-stream to its junction with a tributary near its junction with L.O. No. 30;

thence by that tributary down-stream to its intersection with the Mathari River;

thence by the eastern boundary of that portion to its junction with the Mathari River;

thence by the eastern boundary of that portion to its junction with the Mathari River;

thence by the eastern boundary of that portion to its junction with the Mathari River;

thence by the eastern boundary of that portion to its junction with the Mathari River;

thence by the eastern boundary of that portion to its junction with the Mathari River;

thence by the eastern boundary of that portion to its junction with the Mathari River;

thence by the eastern boundary of that portion to its junction with the Mathari River;

thence by the eastern boundary of that portion to its junction with the Mathari River;

thence by the eastern boundary of that portion to its junction with the Mathari River;

thence by the eastern boundary of that portion to its junction with the Mathari River;

thence by the eastern boundary of that portion to its junction with the Mathari River;

(B) The Hill Ward.

Commencing at the north-east corner of L.O. No. 1 (Upper Hill Estate);

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

thence by the latter river down-stream to its intersection with the Kenya and Uganda Railway;

thence by that railway down-line to its intersection with Kirk Road (near L.O. No. 209/1208);

thence southerly by that road to its junction with White-house Road;

thence easterly by the latter road to its intersection, near the south-west corner of L.O. No. 209/349, with a tributary of the Ngong River;

thence by that tributary down-stream to its intersection with the northern boundary of L.O. No. 37;

thence easterly by that boundary to the north-east corner of that portion;

thence south-easterly by the eastern boundary of the same portion to its intersection with the aforesaid tributary;

thence by that tributary down-stream to its junction with the Ngong River;

thence by that river down-stream to its intersection with the southern 100-foot zone of the Kenya and Uganda Railway;

thence by that zone down-line (south-easterly) to the north-east corner of L.O. No. 1140 (Kenya and Uganda Railway Quarry Reserve);

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

thence by the southern boundary of L.O. No. 1750 (P.W.D. Quarry Reserve) to its south-west corner;

thence westerly by a straight line to the south-east corner of L.O. No. 1750 (Native cemetery);

thence in a generally westerly direction by part of the southern boundary of L.O. No. 1750 the eastern, southern and western boundaries of L.O. No. AS83 (Native cemetery extension); and again by part of the southern boundary of L.O. No. 1750 to the south-west corner of the latter portion;

thence by the western boundary of the same portion to the southern corner of P.O. No. 37;

thence by part of the south-western boundary of the latter portion to its intersection with the Ngong River;

thence by that river, up-stream, to its junction with a dry watercourse on its left (or northern) bank;

thence by that dry watercourse, up-stream, to the south-east corner of L.O. No. 209/421;

thence by the southern boundary of that plot to the south-east corner of L.O. No. 209/393/1;

thence by the southern boundaries of L.O. Nos. 209/393/1, 209/393/2, 209/394/2 and 209/394/1, to the south-west corner of the last portion;

thence by the western boundary of L.O. No. 209/394/1 to its north-west corner;

thence by a straight line across the Ngong Road Reserve to the south-east corner of L.O. No. 1 (Upper Hill Estate);

thence northerly by the eastern boundary of that portion to the point of commencement.

thence by that river down-stream to the most eastern corner of L.O. No. 1870;

thence south-westerly by the eastern boundary of that portion to its intersection with Sciater's Road;

thence westerly by that road to its intersection with the north-western boundary of L.O. No. 209/59;

thence south-westerly by the north-western boundaries of L.O. Nos. 209/59, 209/1006, 209/1099 and 209/76, to the intersection of the last with the northern boundary of the Salisbury Road Reserve;

thence north-westerly by that road reserve boundary to its intersection with the north-western boundary of L.O. No. 209/845 extended thereto;

thence south-westerly by that extended boundary to the south west corner of that portion on the Nairobi River;

thence by that river down-stream to the north-west corner of L.O. No. 209/347/5;

thence southerly by the western boundaries of L.O. Nos. 209/347/5 and 209/347/4 to the Kirichwa Dago River;

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

thence by the latter river upstream to the point of commencement.

(b) Muthaiga Ward.

Commencing at the intersection of the Kiambu Road with the Mathari River;

thence bounded by that river up-stream to the south-east corner of Plot No. 1 of L.O. No. 1870 section VIII (Marlborough Estate);

thence north-easterly by the eastern boundary of that plot to its intersection with the Mathari River;

thence by that river down-stream to its intersection with the Kiambu Road;

thence southerly by that road to its intersection with the Fort Hall Road;

thence north-easterly by the latter road to its intersection with the eastern boundary of sub-division 82 of L.O. No. 214 Muthaiga;

thence south-easterly by that boundary to its intersection with the Mathari River;

thence north-easterly up to the point of commencement.

INDIAN WARDS.

(A) East Ward.

Commencing at the intersection of the Kiambu Road with the Mathari River;

thence bounded by that river down-stream to its intersection with the eastern boundary of L.O. No. 221;

thence by the eastern and part of the southern boundary of that portion to the intersection of the latter with the eastern boundary of L.O. No. 36 (Eastleigh);

thence southerly by that eastern boundary to its intersection with the Nairobi River;

thence by the eastern boundaries of L.O. No. 36 and L.O. No. 211 (Veterinary Quarantine Reserve) to the intersection of the latter with the Ngungu River;

thence by that river up-stream to its intersection with the southern 100-foot zone of the Kenya and Uganda Railway;

thence north-westerly by that zone (up-line) to a squared stone beacon in the vicinity of two culverts at mile 824/17;

thence north-easterly to the south-east corner of L.O. No. 209/1487 (Slaughter House);

thence northerly by the eastern boundary of that portion to its intersection with the southern 100-foot zone of the Third River branch of the Kenya and Uganda Railway;

thence easterly by that zone to its intersection with the western boundary of L.O. No. 36 (Eastleigh) extended southerly thereto;

thence northerly by that extended boundary to the Nairobi River, and onwards by the generally western boundary of L.O. No. 36 to its north-west corner on the Mathari River;

thence by the latter river down-stream to its intersection with the eastern boundary of sub-division No. 82 of L.O. No. 214 (Muthaiga);

thence northerly by that boundary to the Fort Hall Road;

thence south-westerly by that road to its junction with the Kiambu Road;

thence northerly by the latter road to the point of commencement.

(B) Central Ward.

Commencing at the intersection of the Kiambu Road with the Mathari River;

thence bounded by that river down-stream to its intersection with the western boundary of L.O. No. 36 (Eastleigh);

thence by that boundary to the Nairobi River, and onwards by the same extended to its intersection with the southern 100-foot zone of the Third River Branch of the Kenya and Uganda Railway;

thence westerly by that zone to its intersection with the eastern boundary of L.O. No. 209/1487 (Slaughter House);

thence southerly by that boundary to the south-east corner of that portion;

thence south-westerly by a straight line across the Kenya and Uganda Railway to a squared stone beacon on its southern 100-foot zone in the vicinity of two culverts at mile 824/17;

thence by that 100-foot zone down-line to its intersection with the Ngungu River;

thence by that river, up-stream, to its junction with a tributary near the eastern boundary of L.O. No. 37;

thence by that tributary, up-stream, to its intersection with that eastern boundary;

thence northerly by the eastern boundary of L.O. No. 37;

thence south-westerly by part of the northern boundary of the same portion to its intersection with the aforesaid tributary;

thence by that tributary, up-stream, to its intersection with Fourth Avenue;

thence north-easterly by that avenue to its intersection with Elliot Street;

thence north-westerly by that street to its intersection with Fifth Avenue;

thence north-easterly by that avenue to its intersection with Government Road and onwards to Victoria Street.

thence northerly by Victoria Street to its intersection with Reata Road;

thence by that road extended to its intersection with the Nairobi River;

thence by that river, down-stream, to its intersection with Race Course Road;

thence by that road northerly to its intersection with Ngara Road;

thence north-westerly by that road to its intersection with the Kiambu Road;

thence northerly by that road to the point of commencement.

(C) West Ward.

All that area remaining within the Municipal boundary that is not contained within the East and Central Wards.

THIRD SCHEDULE.

BOUNDARIES OF MOMBASA MUNICIPALITY.

Commencing at the most southerly corner of Sub-division No. 36 of Section V, Mainland South (Timbwani);

thence bounded by the generally south-eastern boundary of that section to the most westerly corner of Sub-division No. 36;

thence by a straight line north-westerly to the southern corner of Sub-division No. 47 of Section I, Mainland South (Likoni);

thence by the south-western boundary of Sub-divisions Nos. 27 and 29 to the most westerly corner of the latter Sub-division;

thence by a straight line north-westerly across the Great Road Reserve to the most southern corner of Sub-division No. 36 of the same Section;

thence by the south-western boundaries of Sub-divisions Nos. 28 and 31 to Beacon B.N. 36 on the south-western boundary of the latter Sub-division;

thence by a straight line to the Beacon B.N. 2 on the western boundary of Sub-division No. 111 of Section 11, Mainland South (Mtongwe);

thence to that southern boundary to the south-west corner of that Sub-division;

thence southerly by part of the eastern boundary of No. 119 of the same Section to its south-east corner;

thence by the generally south-western boundary of that sub-division to its most westerly corner on the Road Reserve;

thence by a straight line westerly across that Road Reserve to the south-east corner of Sub-division No. 1 of Section 111, Mainland South (Mtongwe);

thence by the generally southern boundaries of Sub-divisions Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 42 of the same section to the most westerly corner of the last Sub-division;

thence by a straight line north-westerly across the Road Reserve to the most southerly corner of Sub-division No. 1 of Section IV, Mainland South (Mtongwe);

thence by the generally western boundary of Section IV to the Beacon B.N. 2 on the south-eastern boundary of Sub-division 108 of that Section;

thence south-westerly by part of the south-eastern boundary of that Sub-division to its most southerly corner on high water mark in Mkunguni Creek;

thence north-westerly by high water mark to the most westerly point of Mkunguni;

thence by a straight line northerly to the Beacon A39 on the Kenya and Uganda Railway about 5,000 feet west of Changamwe Station;

thence by a straight line north-easterly to the Trigonommetrical Beacon Kibirini, in Changamwe;

thence by a straight line north-easterly to the Trigonommetrical Beacon Nguuni South, in Junda;

thence by a straight line south-easterly to the most northerly corner of Sub-division No. 283 of Section I, Mainland North;

thence by the generally western and south-western boundary of that Sub-division to its most southerly corner on high water mark of the Indian Ocean;

thence south-westerly by high water mark to Ras Kunwongbe;

thence by a straight line south-westerly to Ras Muaka Senge;

thence south-westerly by high water mark to the point of commencement;

FOURTH SCHEDULE.

LOCAL GOVERNMENT (MUNICIPALITIES) ORDINANCE, 1928.

Section 112.

This is to certify that all sums due in accordance with section 112 of the Local Government (Municipalities) Ordinance, 1928, to the Municipal Council (or Board) of in respect of the premises registered in the name of have been paid to the Council (or Board).

This certificate is available to 19

Given under my hand at this day of One thousand nine hundred and

Town Clerk.

Municipality.

OBJECTS AND REASONS.

This Bill is designed to give effect to the recommendations of the Local Government Commission Report, 1927, so far as they concern municipalities, with certain modifications hereafter noted.

Part I of the Bill relates to the establishment of Municipal Councils and Municipal Boards. In regard to Nairobi the recommendations of the Local Government Commission have been adhered to. The area proposed embraces both the present municipal area and also the suburban areas as shown in Plate I of Volume I of the Commission's Report. Provision is also made for the constitution of the Nairobi Municipal Council, for the division of the municipality into wards, European and Indian, and for the distribution of seats.

Provision is also made for the establishment of the municipality of Mombasa under the jurisdiction of a Municipal Board, but in regard to the constitution of this Board the Commission's recommendations have been modified. The municipal area proposed in the case of Mombasa is the present Township.

This Part of the Bill also contains general provisions enabling the Governor to establish other municipalities, to divide municipalities into wards, to appoint polling districts, and to alter the boundaries of any municipality, ward or polling district.

Part II deals with the registration of voters and with election machinery. The electoral qualifications proposed both for voters and candidates are those recommended in the Commission's report. Provision is made that persons nominated by the Governor to a Council or Board shall be persons who would be qualified to be elected as councillors or members. The same rules govern their continuance in office, save as regards terms of office, as apply to elected councillors or members.

Part III deals with the appointment of municipal officers and introduces special provisions regarding the termination of appointment of officers appointed respectively as Town Clerk, Town Treasurer, Town Engineer and Medical Officer of Health. The appointment of these officers is subject to the Governor's approval.

Part IV deals with the duties and powers of Municipal Councils and Municipal Boards.

Part V contains the provisions relating to Municipal Councils and Municipal Boards, and provides for the appointment of members of such Councils and Boards. It is noted that the Commission's recommendation is that the Municipal Councils should be empowered to make provision for the establishment of municipal authorities to make arrangements for various purposes, such as lighting or water supply, having regard to the local conditions and the best interests of the community.

The Bill also provides for the appointment of Municipal Boards to be empowered to make arrangements for the sewerage, drainage, and other municipal works, and to be empowered to make provision for the establishment of municipal authorities to make arrangements for various purposes, such as lighting or water supply, having regard to the local conditions and the best interests of the community.

The Bill also provides for the appointment of Municipal Boards to be empowered to make arrangements for the sewerage, drainage, and other municipal works, and to be empowered to make provision for the establishment of municipal authorities to make arrangements for various purposes, such as lighting or water supply, having regard to the local conditions and the best interests of the community.

Part VII provides for the appointment of a Commissioner to be empowered to make arrangements for the sewerage, drainage, and other municipal works, and to be empowered to make provision for the establishment of municipal authorities to make arrangements for various purposes, such as lighting or water supply, having regard to the local conditions and the best interests of the community.

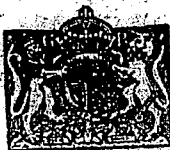
the Governor on all matters relating to Local Government and to supervise certain local public health authorities. It provides for the rendering of annual reports both to and by the Commissioner for Local Government. It further sets up a Central Roads Board and prescribes its duties. These provisions follow generally the recommendations of the Commission.

Part VIII gives to the Governor power to nominate Councils and Boards pending a first election, and power to act in default of Councils and Boards if they fail to carry out their powers and duties in regard to matters of public health. Power is also given to the Governor to reduce Government contributions to a Municipal Council or Board which is not using its revenues in the best interests of the municipality, and to incur other eventualities.

Part IX contains provisions relating to legal procedure and certain miscellaneous provisions.

PROCLAMATION No. 30.

COLONY AND PROTECTORATE OF KENYA



THE NATIVE FOODSTUFFS ORDINANCE.
(Cap. 135 of the Revised Edition of the Laws of Kenya.)

PROCLAMATION.

EDWARD GRIGG.



BY HIS EXCELLENCY Sir Edward William Macleay Grigg, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Knight Commander of the Royal Victorian Order, Companion of the Distinguished Service Order, upon whom His Majesty has conferred the decoration of the ~~Star~~ Cross, Lieutenant-Colonel in His Majesty's Army (retired), Governor and Commander-in-Chief of the Colony and Protectorate of Kenya, in Executive Council.

WHEREAS by section 3 of the Native Foodstuffs Ordinance (Chapter 135 of the Revised Edition) it is provided that where any district or area is suffering from or threatened with a shortage of foodstuffs for native consumption, the purchase or barter of such foodstuffs by persons of any class or classes of the same, for the purpose of resale or export from the district or area in such proclamation specified, unless the written permission of the District Commissioner, as the case may be, be first obtained: *a* prohibiting the export of such foodstuffs generally or of any class or classes of the same from any district or area; *b* prohibiting the use of such foodstuffs or of any class or classes of the same for the manufacture of liquor in any district or area; *c* prohibiting the concealment or destruction of such foodstuffs of any class or classes of the same in any district or area.

AND WHEREAS it has been made to appear to me that the Digo and Kihii districts are threatened with a shortage of native foodstuffs.

NOW, THEREFORE, by virtue of the powers vested in me as aforesaid, and having taken the advice of my Executive Council, I do hereby prohibit

- a* the purchase or barter of yams, sweet potatoes, beans, mtama, mweli, maize and all other grain commonly used as food by natives in the said districts for the purpose of resale in or export from the Digo and Kihii districts unless the written permission of the District Commissioners of the said districts be first obtained;

I spoke to Mr. Montearth, Private Secretary India Office, on the telephone on the 25th May.

I explained to him that we were most anxious to let Kenya have an answer and that we felt that it would be necessary to send our reply to Kenya on the 31st of this month, even if we had had no reply from the India Office.

I asked whether it would be possible for the India Office to let us have their own views, even if they could not by that date have ascertained the official views of the Government of India.

I told Mr. Montearth that I could write on these lines if he liked, but that would rather savour of an ultimatum, which we would like to avoid, since things were so much more easily explained on the telephone than in writing.

Mr. Montearth told me that the view of the India Office was that we were giving them an unreasonably short time. He said that he understood the question had formed the subject of correspondence between the two departments before and that when the India Office, in February (?), told us what their views were, the Colonial Office in March (?) informed them that that was also the view of the Secretary of State, who had independently arrived at the same conclusion as the India Office. It was with considerable surprise, therefore, that the India Office now learnt that we proposed to change our mind and this decision would, the India Office felt certain, come as a considerable shock to the Government of India. In these circumstances, Mr. Montearth submitted that the time for giving the India Office and the Government of India was very very short.

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I spoke to Mr. Monteth, Private Secretary
India Office, on the telephone on the 25th May.

I explained to him that we were not anxious
to let Kenya have an answer and that we felt that it
would be necessary to send our reply to Kenya on the
31st of this month, even if we had had no reply from
the India Office.

I asked whether it would be possible for the
India Office to let us have their own views, even if
they could not by that date have ascertained the
official views of the Government of India.

I told Mr. Monteth that I could write on
these lines if he liked, but that would be rather a vague
an undertaking, which we could like to have since they
were so much more easily explained on the telephone
than in writing.

Mr. Monteth told me that the view of the
India Office was that we were making them an unreasonable
and short C. E. He said that the question of the
question had become far more complicated than it had
been when the C. E. was first proposed, and that when the
India Office, in their reply, told us that they
viewed the C. E. as a Federal scheme to march (to take up
their own view) was also the view of the Secretary of
State, and that the C. E. had arrived at the same
conclusion in the India Office. It was with this object
in mind, therefore, that the India Office was to send
that a proposal to change the C. E. and this deal for
the C. E. was a Federal scheme, and the C. E. was a non-
federal scheme of the Government of India. It
was also the view of the India Office that the
C. E. was a Federal scheme in the Government of
India.

I should put this view to the Department and it seemed only reasonable that we should, in any case, warn the India Office before we actually sent our telegram.

Mr. X said that they had sent their telegram to India on the 10th May and had marked it "urgent". They did not see that they could do anything more by the circumstances in the way of

Handwritten signature
1941

I said I would put this view to the Department and that it seemed only reasonable that we should, at any rate, turn the India Office before we actually sent our telegram.

Mr. [unclear] said that they had sent their telegram to India on the 13th May and had marked it "urgent". They did not see that they could do anything more in the circumstances in the way of [unclear].

W. [unclear]

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ar 100

Mr. Allen

Mr. *Paulina*

Mr.

Mr. Bottomley

For Mr. Edgcombe's signature

Mr. E. J. Harding

Sir J. Shackburgh

Sir G. Griggle

IMMEDIATE AND SECRET

Sir C. Davis

Mr. S. Wilson

Mr. Ormsby-Gore

Lord Leat

Mr. Amery

DOWNING STREET.

19 May, 1928.

DRAFT.

Dear Carter

H. H. A. CARRER, ESQ.

(India Office)

(No. 7)

with reference to your official letter of the 7th February, 1928

(L. & C. 810/28) and previous correspondence.

I enclose a copy of a telegram from the

Governor of Kenya regarding the report

of the Feetham Commission on Local

Government and the Bill which has been

prepared to give effect to the

recommendations of the Commission.

It is understood that the Bill has been

published in the Official Gazette but

there has not yet been time for a copy to

reach the Colonial Office.

Tel. Tr. Gov. Kenya No. 111
9th May

(No. 19)

(No. 19)

Draft Telegram

Handwritten notes:
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It should explain that as the Indian community refused to nominate candidates for the election of Indian members to the Legislative Council in March last, it became necessary to consider some alternative means of securing ^{LOW} representatives of the Indian community on the Council if they were to have a voice in the discussion of this legislation. Private and personal correspondence between the Secretary of State and the Governor, in the course of which the Govt. put forward the proposal that the difficulty might be met by nominating Indian members to the Council from the existing voters roll, so that they might serve on a Select Committee of the Council to which the bill would be referred. The Select Committee was to include, in addition to official members, an equal number of European and Indian unofficial members - five of each, so the number of the new Indian members to be nominated would have been four.

(provision for which is made in the existing Royal Proclamation)

The S. of S. decided that the Govt. might announce that the Bill would be introduced at the May session of the Council, and that after its second reading it would be referred to a Select Committee ^{as} above ^{that} ~~and~~ ^{that} he should ~~also~~ announce that the Government was prepared to nominate four Indian members to the Council for another year in order that the Indians might thus have full constitutional opportunity for criticising the Bill.

In agreeing to this action the S. of S. was influenced by the fact that this procedure had the merit of offering the Indians a definite method for enquiry into their case with an investigating body containing members of their own race; and in authorising the Governor to act on these lines the S. of S. made a point of the importance of the Govt. announcing his proposals for the reference of the Bill to a Select Committee before any

attempt was made to nominate Indian members to the Council.

The Governor took action accordingly but it will be seen from the enclosed telegram that the Indians have refused to accept nomination to the Council and that their opposition to the Bill is now based on objections of a general nature to any form of communal franchise whether for legislative or municipal bodies.

The Governor takes the view that the principle of the White Paper of 1923 in regard to communal representation should be re-affirmed as early as possible, and that it should be made clear to the Indian community that this question will not be raised again in the report of the Hilton Young Commission on Closer Union. On this very important question of policy the Government has informed the Governor privately that he should know what is in the mind of the Commission as to

the

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the franchise and that it is impossible for him either to influence them or to announce that the 1923 decision will prevail over any recommendation which they may make. No further consideration need be given therefore at the moment to that suggestion. The S. of S. has given further consideration to the possibility of postponing this legislation. This, you will remember, was suggested by the Government of India in their telegram of the 20th Jan. a copy of which was enclosed in your letter of the 26th July. (No. 2) (No. 4) (No. 5) postponement had previously been suggested to the Governor by the S. of S. - see G.O. despatch Confidential (2) of the 6th Feb., a copy of which accompanied our official letter of the 8th Feb. He has however come definitely to this conclusion that it cannot be postponed, not only because of the necessity of placing the municipal services of Nairobi on a more satisfactory

satisfactory footing at the earliest possible moment, but also because he feels that the view of the atmosphere of confidence reported of the Commission will be important. It is his view that it is important that if it can possibly be done, the particular question should be settled by agreement before the report of the Commission on Clear Air is published, in order to avoid the danger that the existence of this outstanding matter might prejudice the reception of that report or that, on the other hand, any contentious issues arising from the report might unnecessarily embitter controversy.

Accordingly

he now proposes to telegraph to the Governor confidentially in the terms of the enclosed draft, but before doing so he would like to know whether Lord Birkenhead wishes to offer any observations.

The S. of S. fully realises that the proposal which he is making may not be acceptable to the Indians. It may also

be open to objection from the point of view of the European States who would possibly assume the appointment of a Commission as proposed in the draft telegram as yielding to non-co-operation and refuse to take part in any further discussion of the Bill beyond the Legislative Council. On the other hand the European community might prefer that the Indians should have a further opportunity of discussing the matter and that non-co-operation should lead to an indefinite postponement of the question. What view the Governor will himself take of the proposal, the S. of S. cannot say; but in all the circumstances if a further effort is to be made to secure Indian co-operation - and he is anxious that the Indians should have every opportunity of this - it appears to him to be the most satisfactory procedure which he can suggest.

Received from the Secretary of State for the Colonies
1920
1920

The following resolution was passed at a meeting of the Executive Council of the Colony held on the 11th day of August 1920.

That the Executive Council of the Colony do hereby resolve that the Government of the Colony should not proceed with the Bill to establish a Land and Agricultural Bank in this Colony in view of the facts that (1) the question of allotment of land to various communities and particularly to Indians has not yet been finally decided (2) the proposed Government subsidy to the Bank is a charge on the whole revenue of the territory irrespective of the Bank being practically a measure calculated to benefit only a single community (3) the Indian Community are at present without the means of influencing the decision of the Legislative Council on this point.

(b) The Executive Council of the Colony do hereby resolve that the Government of the Colony should not proceed with the Bill to establish a Land and Agricultural Bank in this Colony in view of the facts that (1) the question of allotment of land to various communities and particularly to Indians has not yet been finally decided (2) the proposed Government subsidy to the Bank is a charge on the whole revenue of the territory irrespective of the Bank being practically a measure calculated to benefit only a single community (3) the Indian Community are at present without the means of influencing the decision of the Legislative Council on this point.

constitutional protest against the measure(s) of the Government as the Kenya Central Indian Association may from time to time decide upon responsibility for having driven the Indian Community to this position entirely hostile with the Government. 3. That this Committee is of opinion that Bill to establish a Land and Agricultural Bank in this Colony is permanent in view of the facts that (1) the question of allotment of land to various communities and particularly to Indians has not yet been finally decided (2) the proposed Government subsidy to the Bank is a charge on the whole revenue of the territory irrespective of the Bank being practically a measure calculated to benefit only a single community (3) the Indian Community are at present without the means of influencing the decision of Legislative Council on this point.

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You will remember that Phadke and Abdul Wahid Indian Members of the Commission did not oppose communal franchise see page 52 Volume I of Report and absence of any reference to this point in Phadke's minority report and that Pathays in his minority report laid no particular stress on common franchise Nairobi Municipal constitution which Indians accepted is on communal basis through Indian members on 1924 Municipal Commission as in the case of Legislative Council made proviso that their acceptance did not commit them to any approval of communal roll it must I fear (I be) recognised that opposition to Westham Commission is now merged into general demand for common roll and that Nairobi and Mombasa proposals however modified will be steadily opposed on that ground pending the Commission of Hilton Young Commission. It is clear that the Indian position to-day is based on claim to common versus communal roll and that until a definite pronouncement is made the alteration will be made regarding the matter of communal representation Indian non-co-operation may be expected to continue. In discussion with Phadke who represents the moderate Indian party in Kenya he made this point clear and further stated that Indians regarded this question as one of the terms of reference to Hilton Young Commission. Their representatives had been examined at length in regard to it and it is generally believed by the Indians that a recommendation on this point will be embodied in the Hilton Young Commission Report. They consider therefore that the present is the time to make their position quite clear and to cease from any provisional acceptance of a communal roll. They believe therefore that any acceptance of nomination to the Council at the present stage might only tend to weaken their position. It is urgent therefore that the principle of the White Paper in this respect

copy of minutes

18A
114

Sir S. Wilson

The Official telegram of May 28th has not come.

Local Government Bill. We proposed a representative Committee outside the Legislative Council, but the Governor hold that the Feotham Commission had consulted everyone. He said that there must be a Committee of Council, and that if the Indians did not accept nomination to Council the Bill must proceed. We agreed, while reserving judgment as to what should be done if they refused nomination.

They have refused: the Governor is unwilling to proceed with the Bill and I think that the only course is to have an outside Committee, as we suggested originally. If the Indians will not co-operate on that, they must put up with the consequences.

I do not think there would be much European criticism as most of them would consider it (I fear) as a rather clever move against the Indians.

(itd) W. C. B.

10. 5. 28.

We have to consider our position with the I.O. I have not yet released the official telegram for Cabinet Distribution, but I think it would go. Do you agree?

(itd) W. C. B.
12.5.28
(20) S. H. W.
12.5.28

Yes
S.H.W.
L.S.A.

Note: The telegram is being distributed to the (Colonial) Secretary
S.S.

See 1/8 late

I agree with W.C.B. on this

115

TELEGRAM from the Governor of Kenya to the Secretary of State
for the Colonies.

(Dated 25th April Received Colonial Office 6.30 p.m. 25th
April, 1928.)

No. 92. 25th April. Urgent.

With reference to your private and personal telegram of
4th April I have offered Indian nomination to Council on the
lines which you approved and have stated publicly that Local
Government Bill will be referred to Select Committee containing
equal number of Unofficial European and Indian members.
Reply will not be received until after meeting All-Kenya and
Indian Committees early next month. In the meantime very
desirable to publish at once draft of Local Government Bill
embracing Federal Commission's recommendations for Nairobi and
Mombasa with modifications which we propose as months
publication required before introduction in Council. Request
your approval to publish accordingly for public information and
criticism which would in no way necessitate the immediate
introduction into Council or prejudicial reference to Select
Council as proposed by me.

answ 1 tel 27 April 1928

TELEGRAM from the Governor of Kenya to the Secretary of State
for the Colonies.

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embodied in Feetham Commission's recommendations for Nairobi and
Mombasa with modifications which we propose as months
publication required before introduction in Council. Request
your approval to publish accordingly for public information and
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introduction into Council or prejudice reference to Select
Council as proposed by me.

2015

82577 copies. 17 Jan 1928

115

Mr. Wiseman 31. 3. 28.
Mr. B. Ottomley 31. 3. 28.
Sir J. Wiseman B.H.W. 2.4.28.
Mr. Amery L.S.A. 3/4.

Amey
15
18/6
116

X/15033/28. Kenya.

PARAPHRASE TELEGRAM from the Secretary of State for the Colonies to the Sir E.W.M. Grigg, Government House, Nairobi.

(Sent 3 p.m.; 4th April, 1928).

Private and Personal. Indian Question.

In view of difficulties which you point out in your telegram 27th March I withdraw my suggestion for dealing with this question and am willing to ^{agree to} trial of your own plan which has the merit of offering the Indians a definite method for enquiring into their case with an investigating body containing members of their own race. I attach great importance to your suggested announcement before attempt is made to nominate Indian Members of Council of your proposal as to Select Committee.

I am yet, however, prepared to take up at present any definite line as to the course to be adopted in the event of Indians refusing to accept nomination to Legislative Council. Since my main object in the interests of the Colony is to allay any racial controversy, which can do no good and might do serious harm, I feel that the best and indeed the only possible remedy for the existing difficulties is probably the lapse of time and the removal of any irritant cause. Therefore if difficulties should appear likely to arise I would advise you to obviate so far as possible all occasion for raising racial issues and to play for time rather than press before time is ripe for immediate solution. Such a course seems to be more in accordance with policy followed in India than that which you described. Please report officially as soon as you are in a position to do so on the whole matter.

RECEIVED
30 MAR 1928
COL. OFFICE

14
117

PARAPHRASE telegram from the Governor of Kenya to the Secretary of State for the Colonies.

Dated 28th March.

(Received, Colonial Office, 9.25 p.m., 28th March, 1928).

Private and personal. 27th March. Your telegram 15th March. I understand your position and appreciate that you desire if possible to support me. I have already considered carefully course of action which you suggest but two difficulties have arisen which prejudice, I fear fatally, the chances of success. In the first place opposition of Indians to Feetham Report which was not serious when I first returned to Kenya has now been merged in general campaign on the question of status of Indians in the Colony. This was stimulated by public attacks both in India and at home on policy of appointing Commission and encouraged by other events to which I need not again refer. It has also been fuelled by visit of Ewbank and M. Singh who have left the impression that the Indian Government is once more intervening actively in East African affairs. I have done and will do my best to combat this idea but it is very deep. Main plank in the position of Indians is now their demand for common vote. This demand having been revived naturally they are anxious not to prejudice their position by accepting elected representation in the Legislative Council under the 1923 Settlement or by compromising on Feetham Report. This is the reason for their refusal at eleventh hour to nominate candidates for election this month and also for their demand that action on Feetham Report shall be deferred until after Hilton Young's Commission has reported. Maharaj Singh and Ewbank asked me for assurance on the latter point which as Report lays outside their terms of reference and those of the Commissioners I naturally said I was not able to give but Indian determination to hang up the Feetham proposal on general grounds even more than on its own merits remains. For these reasons I fear that chances of success of agreement on a Committee such as you propose would be practically negligible.

Nevertheless

you will see these Indians equally with unofficial European
Government prepared to nominate four Indian members for another year
members and pay that in order that Indians may have full
constitutional opportunity for criticising the Bill.

I have reasonable hope that Indians will accept solution
offered them since there is an Indian party opposed to non-cooperation
but it must be clear that if they refuse to accept nomination
for Council as proposed the Government will proceed with the Bill
in their absence. The Government would have to face strong
European agitation if it took refusal as ground for further post-
ponement of the Bill. Situation would however be equally difficult
if the Government appointed Committee outside the Council after
Indian declaration of non-co-operation as regards the Council
itself. Therefore I trust that you will approve firm but con-
ciliatory attitude which I suggest. I have discussed the
position not only with equal advisers but also privately with
one or two representative Europeans such as Bank Managers who are
in close touch with both communities but who stand outside
politics. These insisted on necessity for showing Indians that
non-co-operation will not (group omitted) Government but will
on the contrary only put Indian leaders out of court. If
Government fail to do this there is risk of grave anti-Indian
movement.

Please forgive long delay in answering your telegram. I
have been absent in Northern Province and wished carefully to
weigh your suggestion afresh before replying to it. Bill should
be published early in April if you agree to course I propose. I
shall therefore be grateful for reply as soon as possible by
telegraph.

15033/28 Kenya.

PARAPHRASE TELEGRAM from the Secretary of State for the Colonies to the Governor of Kenya, Sir E. Grigg, Government House, Nairobi. (Sent 5.35 p.m., 15th March, 1928).

Mr. Wiseman 14.3.
Mr. Bottomley 14.3.
Sir S. Wilson S.H.W. 14.3.28.
Mr. Amery L.S.A. 14.

address
Grigg,
Govt. House,
Nairobi.)
(Initial)
W.O.B.

Your telegram of 5th March Private and personal I do want you to realise that the views regarding Nairobi expressed in Confidential despatch of 28th of January from Ormeby-Gore were arrived at quite independently of anything said by Government of India and that primarily in the interests of India I personally regard it as important that local opposition of Indians to proposals of Report of Feetham Committee should be faced, and if possible, disarmed by giving fullest possible consideration. However, it is essential to the interests of His Majesty's Government that the opportunity of stating their views, should be afforded to local Indians and that they should be made to realise that it is Government's deliberate policy that their objections should be fully considered. It was never intended that the reference to the Hilton Young Commission in despatch of 28th of January should be regarded as a desire that this problem should be considered by that body and I do not think it necessary to discuss it with them or with Huggard. My views are quite definite and not only for that reason but having regard to form of your announcement on the 30th of August to the Legislative Council in your own interests as Governor, that what would seem to outsiders to be a change in policy should

DA

should arise as if it proceeded from you spontaneously. You should, in no circumstances, suggest or allow it to be inferred that it is due to pressure from the Government of India as that would make political situation far more difficult to handle. Further, I might have to make it clear at any moment that such an inference was incorrect in fact.

Course I propose is that you should send me an official telegram proposing that Committee should be set up to consider application of Festina's proposals to Nairobi in view of difficulties which have arisen and which are illustrated by reported decision of Indians not to nominate candidates for election to Legislative Council. Committee might consist of representatives of Nairobi Town Council, of Indians, of suburbs affected, and of Elected Members of Legislative Council. It should be asked to frame an agreed scheme taking care, however, Indians would not be able to discover valid reason for refusing to serve on Committee on ground that they were overweighed by representatives of other interests in relation to their interests in the enquiry.

RECEIVED
7 MAR 1928
COLONIAL OFFICE

15027/8
122

PARAPHRASE TELEGRAM from the Governor of Kenya (at Mombasa) to the Secretary of State for the Colonies.

Dated 6th March.

(Received, Colonial Office, 5.40 p.m., 6th March, 1928).

Private and Personal. 6th March.

Reply to your telegram 24th February.

N^o 4

Your confidential despatch of 6th February now received in regard to Mombasa. I can meet Government of India. Their proposal as to Nairobi is more difficult since if the balance of representation is altered inclusion of outer suburbs will prove impossible and whole scheme falls to the ground unless suburbs are included. In view of delay owing to discussion of these points I have postponed till May the next meeting of Legislative Council as I am most anxious to avoid having a state in Council that reforms such as water supply which are presently needed for the health and general welfare of Nairobi are held up in deference to political exigencies in India. Any such announcement might stir strong counter anti-Indian agitation and this would entirely defeat the object you, myself and Government of India here in view. Frustration of action will be more difficult to explain to the Commission on Closer Union definitely wish to dissociate themselves from any responsibility for advising on the Feetham Report. Despatch on the whole position being prepared which will reach you before end of April. Huggard who was member of Feetham Commission is going home at the beginning of May and will be available for any explanation you may require. As Young and the Commission will return to London about the same time I hope it may be possible to send me instructions then which will prevent needless agitation or controversy here. Young being informed accordingly.

REC'D
7 MAR 1928
COL. OFFICE

107/11/K
122

PARAPHRASE TELEGRAM from the Governor of Kenya (at Meru) to the Secretary of State for the Colonies.

Dated 5th March.

(Received, Colonial Office, 5.40 p.m., 5th March, 1928).

Private and Personal. 5th March.

Reply to your telegram 24th February. *1210*

Your confidential despatch of 5th February now received, in regard to Mombasa, Government of India. Their proposal as to Nairobi is more difficult since if the balance of representation is altered inclusion of outer suburbs will prove impossible and whole scheme falls to the ground unless suburbs are included. In view of delay owing to discussion of this, which I have not ended till May the next meeting of Legislative Council as it is most important to avoid having to state in Council that reforms such as water supply which are urgently needed for the health and general welfare of Nairobi are held up in deference to political considerations in India. Any such announcement might start strong counter anti-Indian agitation and this would entirely do what we object you, myself and Government of India have in view. Postponement of action will be more difficult to explain as the Commission on Closer Union definitely wish to dissociate themselves from any responsibility for advising on the Feetham Report. Despatch on the whole position being prepared which will reach you before end of April. Huggard who was member of Feetham Commission is going home at the beginning of May (? and will be available) for any explanation you may require. As Young and the Commission will return to London about the same time I hope it may be possible to send me instructions then which will prevent needless agitation or controversy here. Young being informed accordingly.

N
107/11/K
122

123

15033/28. PARAPHRASE TELEGRAM from the Secretary of State for the Colonies to the Governor of Kenya.
(Sent 3.35 p.m. 23rd February, 1928.)

Miramani
21/2/28
Mr. Bottomley
21/2
Mr. S. Wilson
S.H.W. 22/2
Mr. Grimsby-Gore
O.G. 22/2
Mr. Amery
J.S.M.
22.

Private and Personal.

In reply to your telegram 17th February. My views expressed in my Confidential despatch of 28th January ^{were} based on the assumption that you intended to enact without modification all Nairobi proposals of Feetham report and the question had not then arisen of framing amendments which would avoid unfavourable political consequences. If it is desirable to enact early legislation regarding Nairobi and Mombasa best course might be to publish Bills for general information and consideration embodying such amendments of Feetham proposals as will in your opinion meet objections of Indian. Government of India see my despatch Confidential 2 of 6th February suggest as alternative ^{the} courses possible amendments both for Nairobi and Mombasa. Please inform me by telegram if you agree to their suggestions and also give particulars of any modifications which you may be making to avoid renewal of racial controversy. In the meantime I do not see that any announcement of the kind you suggest should be necessary as regards East Africa Commission. You will no

(No. 4)

This sentence has been added for concision. of 22nd February I regard it as most important that communication should be made at once initialled telegram. (No. 1a)

Mr. Bottomley has been & agreed.
R.S.W. 23/2.

S. of S. approves the addition
23/3/28.

REF
25 FEB 1928
CO. NO. 109E

9
124

PARAPHRASE TELEGRAM from the Governor of Haiti to the Secretary of State for the Colonies.

(Dated 22nd February. Received Colonial Office 8.55 p.m. 22nd February, 1928.)

Your telegram 3rd February private and personal.

In view of Hilton Young's attitude regarding postponement of action on Westham's report I am taking no action on paragraph 3 of your confidential despatch January 28th just received pending your reply to my telegram 17th February. February 22nd.

British Feb 23 1928

RECEIVED
20 FEB 1928
COL. OFFICE

15/9

Paraphrase Telegram from Sir E. Grace at Mombasa to the Secretary of State for the Colonies.

Dated 17th February, 1928.

(Received Colonial Office 9.50 a.m. 18th February, 1928.)

Private and Personal

103

17th February. Your telegram of 3rd February, Sir E. Hilton-Young asks me to say that if decision on Feetham report is postponed pending consideration of his own report he will find it necessary to make public announcement to prevent it from being assumed that on closer Union intends to enquire into Municipal question(s) or to reconsider recommendations of Feetham Commission. In view of this I urge most strongly that there should not be any further delay in regard to reports on Nairobi and Mombasa. In Mombasa I can effect compromise which will probably meet the views of Indians in Mombasa and I can also secure general agreement on submission to Governor in Council of Nairobi Municipal matters for a period of years which would help considerably with Indian opinion here. Latter proposal was put privately to me by the Governor as likely to influence opinion in India. As the Commission will be leaving Kenya in 2 days time Hilton-Young asks that you should on his behalf make public statement in the sense of the first sentence of this telegram, at the same time as any announcement you may make in Feetham report. Postponement will be very difficult to justify here and will I am sure greatly prejudice attitude to Report of Commission. I shall be deeply grateful if before you decide you will consider proposed modifications of recommendations which I can telegraph to you.

led. etc. 11/11

SECRET

Any further communication on this subject should be addressed to—
The Under Secretary of State for India,
Economic & Department,
Overseas, India Office,
London, S.W. 1,
and the following reference quoted:—
E. & O. 810/28.



INDIA OFFICE,
WHITEHALL,
LONDON, S.W. 1

7/4 February, 1928.

RECEIVED
-8FEB1928
C.C.I. OFFICE

Sir,

With reference to the letter from this Office dated 26th January 1928, E. & O. 499, relative to the report of the Peetham Commission on Local Government in Kenya, I am directed by the Secretary of State for India to enclose

Dated 4th February 1928.) paraphrase of a further telegram from the Government of India on this subject.

I am, Sir,
Your obedient servant,

Secretary,
Economic & Overseas Department.

The Under Secretary of State,
Colonial Office,
S. W. 1.

Handwritten: C. J. ...
7/4 Feb 1928

Handwritten: 102

127

PARAPHRASE TELEGRAM FROM VICEROY, DEPARTMENT OF EDUCATION,
HEALTH & LANDS TO SECRETARY OF STATE FOR INDIA,
DATED 4th FEBRUARY, 1928.

Feetham Commission. Our telegram of January 20th. Our deputation has informed us that after previously being published legislation on report will probably be introduced at the end of this month and it is expected that bill will be referred to Select Committee and be passed in April. We assume that suggestions made in telegram referred to above have already been brought to notice of Colonial Office. It might be desirable to send to what Ewbank and Maharaaj Singh now report to suggest to Colonial Office that our views be communicated expeditiously to Government of Kenya.

178

- Mr. Wiseman 1/12/28
- Mr. [unclear]
- Mr. [unclear] 1/2
- Mr. [unclear]
- Sir C. Strachey
- Sir J. Shuckburgh
- Sir G. Girdle
- Sir C. Dachs
- Sir [unclear]
- Mr. Ormsby-Gore 2.2.28
- Lord Lovat
- Mr. Anson

Downing Street,

6 February, 1928.

C. D.
 R. A. P. S.
 B.

Sir,

With reference to my

telegram of the 30th February,

I have the honour to transmit to you the accompanying copy of a letter

from the India Office, forwarding a

telegram from the Government of India

expressing their views on the subject

of the recommendations in the Report

of the Feetham Commission regarding

Nairobi and Mombasa.

You will no doubt consider

with great care the views expressed

by the Government of India, and in-

form me of your decision upon them

in due course. As indicated to you

in my telegram of the 22nd February,

I had already arrived at the conclu-

sion that the recommendations relat-

ing to Nairobi should be postponed,

DRAFT.

KENYA

Confidential (2)

Gov. Grigg.

(draft herewith)

1/4

6 FEB 1928 10

I.O.

Copy (2) (part enclosed)

Fr. Office 26th Jan. (No. 2)

Please 16
for [unclear]

(Adpts)

as the Government of India suggest, until
after the Report of the E.A. Commission had
been presented and considered.

I have, etc.,

(for the Secretary of State)
(Signed) W. ORMSBY GORE

15033

2

Any further communication on this subject should be addressed to—
The Under Secretary of State for India,
Economic & Department,
Overseas, India Office,
London, S.W. 1.
and the following reference quoted:
E & O 499/28



INDIA OFFICE,
WHITEHALL,
LONDON, S.W. 1.

27 JAN 1928
COLONIAL OFFICE

26th January, 1928
J. G. [Signature]

Sir,

I am directed by the Secretary of State for India to refer to the correspondence ending with your letter of the 14th October last, X 10220/27, regarding the report of the Peetham Commission on Local Government in Kenya.

2. Paraphrase is enclosed of a telegram received from Government of India on this subject. It will be seen that the Government of India suggest for consideration whether the present time is opportune for proposing legislation unless it is intended to modify the recommendations affecting Nairobi so as to make them more acceptable to the local Indians; if it is intended to give effect to the Commission's recommendations without such modification the Government of India suggest that this action might be deferred until the report of the Hilton-Young Commission has been considered by His Majesty's Government.

3. The Government of India suggest this postponement as otherwise agitation over a relatively unimportant matter would prejudice the work of the Hilton-Young Commission and the consideration of its report. They are anxious that it should be understood that their suggestion does not proceed from any desire to delay municipal reforms which may be urgently required; and if postponement is considered impossible they suggest that reasonable Indian demands might be met by adopting the Commission's proposals for the composition of the Nairobi Corporation subject to the number of Indian members

being

The Under Secretary of State,
COLONIAL OFFICE.

Copy to Gov. Ceylon 6/3/28

Any communication on this subject should be addressed to—
The Under Secretary of State for India,
Economic & Department,
Cranborne India Office,
London, S.W. 1,
and the following reference quoted—
E & C 499/28



INDIA OFFICE,
WHITEHALL,
LONDON, S.W. 1.

15033
2
129

27 JAN 1928
COL OF E

26th January, 1928.
50333

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The Under Secretary of State,
COLONIAL OFFICE.

Copy to Secy Conf. 123 & 124/28

130

being 7 instead of 5 so that there would still be a majority of European over Indian representatives.

4. As regards the Mombasa Municipal Board the Government of India suggest for consideration that the numbers of elected European and Indian members should be equal, since there is evidently a stronger claim for equality in the case of Mombasa than there may be at Nairobi.

5. The Earl of Birkenhead concurs generally in the suggestions put forward by the Government of India and has no doubt that the Secretary of State for the Colonies will give them careful consideration.

I am, Sir,

Your obedient servant,

W. S. S. S.

Paraphrase telegram from Viceroy, Department of Education, Health and Lands to Secretary of State for India, 20th January, 1928.

Report of Feetham Commission. It is understood that it is the intention of Kenya Government to introduce legislation not later than May giving effect to Commission's recommendations. According to our information Colonial Government are ready to consider representations with regard to Mombasa but do not propose to accept substantial alteration regarding Nairobi. Although date of proposed legislation undoubtedly gives time to submit representations on Commission's more important proposals, we would like Colonial Office to consider whether present time is not inopportune for legislation proposed in regard to Nairobi, if the intention is to give effect to recommendations without modification rendering them more acceptable to local Indians.

2. If it is to be assumed that recommendations of Commission are intended to be carried out without substantial alteration in regard to Nairobi, we suggest postponement for two reasons. Firstly, is need of a calm atmosphere for period of work of Hilton Young Commission and consideration by His Majesty's Government of its Report. It is reported that Report of Feetham Commission and Colonial Government's decision regarding Nairobi have aroused antagonism in Indian community resulting in boycott of Legislative Council by four out of five Indian members, and atmosphere for more important Commission has already suffered to that extent. We fear that if legislation giving effect to Nairobi proposals

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as they stand at present be introduced not later than May, Indian community's attitude may become worse and embarrassment be caused to His Majesty's Government and ourselves by widespread agitation over less important matters at a time when greatest possible measure of co-operation and goodwill from all communities concerned will be essential for consideration of proposals of far-reaching nature which may be the outcome of Hilton Young Commission. We have been informed by our deputation in East Africa that it was with ~~the~~ great difficulty resolution urging boycott of this Commission was averted during last Session of East Africa Indian Congress. It would be unfortunate if adoption of recommendations of Feetham Commission regarding Nairobi afforded extreme element among local Indians a new handle to work up bitterness.

3. The second reason we have, on assumption mentioned above, for suggesting postponement is that since proposals of Feetham Commission regarding Nairobi aim at giving to non-official Europeans predominance in municipal council, adoption of their recommendations will give precedent to support political claim to protagonists of view that Legislative Council should have non-official European majority.

4. We would urge strongly that, in view of above considerations, unless modification of proposals of Feetham Commission regarding Nairobi is contemplated so as to satisfy reasonable Indian views your influence should be exerted to induce Colonial Office to agree to defer action on Feetham Report until His Majesty's Government has considered Report of Hilton Young Commission. We understand that if this is done boycott of Kenya

Legislative/

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Legislative Council will be called off by local Indians. This information is repeated as supporting plea that peaceful atmosphere will be secured by postponement.

5. At the same time we do not desire it to be thought that we have any objection to Municipal reforms which may be required urgently. If delay is considered impossible because local exigencies make it imperative to take early action for reorganisation of municipalities of Mombasa and Nairobi we should of course not desire to urge postponement provided that concessions can be made to meet what appear to us to be reasonable Indian demands. We are of opinion that it would suffice if Indian representatives on Nairobi Corporation were increased from number recommended by Peetham Commission, viz. five, to seven. Proposed increase should prove acceptable to Colonial Government in so far as it would not affect materially composition of Corporation as there would be elected European majority of three, while including Railway representative and Senior Commissioner, probably both of whom will be European, majority of Europeans over Indians would be five. With regard to Municipal Board, Mombasa, our deputation has strongly recommended that number of elected Indians and Europeans should be equal, say seven each, in addition to nominated members, at least one of whom should be an official; we should like consideration to be given to this suggestion. In case of Mombasa claim for equality appears to be strong since the Indian population exceeds the European by nearly 12 to 1, and the former own most of the shops and landed property and pay more than twice as much in rates.

Copy Telegram attached to this file for 1 B 31 X
read as to statement of India attitude - Dec 1948
see D. II. III. (Tokoro) P.M. 12/18

PARAPHASE TELEGRAM from the Governor of Kenya to the Secretary of State for the Colonies.

Dated 6th January.

(Received, Colonial Office, 1.44 p.m., 16th January, 1948).

Priority.

Private and personal. 6th January.

At special Session held here during the Christmas holidays last African Indian National Congress passed three resolutions of special importance, namely:

I. Rejected communal franchise and resounding decision taken last year to continue to work on a common platform.

II. ~~Resolution of cooperation in the event of effect being given to the British proposal.~~

III. ~~Resolution of confidence in appeal.~~ The last was a ~~sharp and the consequences shown by the~~ moderate leaders were ~~clearly evident before I met, that Congress would take a moderate line.~~ ~~Chairman has however attacked for the~~ ~~speech~~ ~~due to~~ ~~Chairman's~~ ~~speech~~ ~~at~~ ~~Calcutta~~ ~~dinner~~ ~~on~~ ~~30th~~ ~~November~~ ~~7.~~ This speech formed basis of violent attack on me in inaugural address of Chairman at Indian Congress. It is undoubtedly felt that no Governor would have delivered such an attack upon a colleague without feeling assured of official tolerance. Such greater difficulty has been thus experienced by moderate Indians in restraining extremists and they have signally failed. Presence of Mehra, Singh and Shank has also been taken as meaning that the Government of India may be counted upon to sympathise with agitation against the Governor of Kenya. These the gentlemen were

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were actually present at sessions of Congress which passed the resolutions referred to above and therefore were naturally thought to lend countenance of the Government which they represent not only to the attack on King's representative in their colony, but also to policy of non-co-operation both in Colonial and Municipal matters. I think they might well be instructed from India that they should disassociate themselves from such resolutions and take a more active part in forming opinion of Indians towards a reasonable attitude but I hesitate to put this to the Viceroy privately without your authority.

Mr. [Name] has explained that he will waive the resolutions against him in order to prevent a riot which violence and from being provoked. His speech is moving at the same time as a course of action and I am sure that he will be able to do so. He has a good deal of influence and has offered to resign from the Executive Council but has offered to resign as to suspend his resignation for two or three months in order to show that he is not a disloyal citizen. I do not think that he has any reason for I still have great confidence in his sense and loyalty. He has really been the victim of circumstances for which the responsibility lies outside his sphere and I trust you will pardon his grave lapses. I shall be most grateful for any personal advice on the situation you can give me. I have to guard myself against the danger that too much toleration of Indian agitation may lead to feeling amongst Europeans that Congress-agitation is required particularly as regards municipal re-organisation but I am most anxious not to make unnecessary difficulties for Government of India or yourself.

from public opinion had arisen since the publication of the report or appeared to you likely to arise. In these circumstances I am at a loss to understand why on the 30th of August, you informed the Legislative Council without qualification that the recommendations regarding Nairobi had been approved by the S. of S. and that you hoped that legislation would be introduced promptly to give effect to them, and why your despatch is now silent as to the

reason which your Government is *(Nairobi)* responsible for in the matter.

3. So far as I can judge from this memorandum of 12th August and from other sources of information there is little doubt that Indian apprehensions have been aroused by the proposals relating to Nairobi in the Seetham report. It is clear to me that, as the main political development

in Africa outstanding at present is the forthcoming report of the U.A. Commission, all contentious ~~and~~ issues, which in prospect ~~to~~ would be likely to create an unfavourable background for the reception of the Commission's

in any question
 recommendations must so far as possible
 be eliminated. It is also clear that the
 adoption of ^{the} ~~Mr. Feather's~~ ^(Mr. Feather's) proposals ~~would~~
 certainly accentuate the feeling of
 political grievance on the part of the Indian
 community, and I am, therefore, ^{of opinion} ~~of opinion~~
 that, even if they are ^{still} acceptable to your
 Govt., no action should be taken to bring
 them into effect, at any rate until after
 the V.A. Commission has produced its report
 and its political effect generally and in
 relation to Indian questions in particular
 can be properly estimated. ^{Further, you will} I also think

realize
 that, in view of this statement by the Indian
 National Congress of their position, of which
 I was not aware when my telegram of the 26th
 August was despatched, ^{I shall await and} any proposed legislative
 interest ~~the any expression of opinion by~~
 on this subject should be submitted to me
 the ~~various committees~~ ^{before it is introduced into the legislative}
^{preparation of any proposed legislation}
^{preparatory to its introduction in the}
 Council.

3. In the meantime, you should inform
 the Secretary of the Indian National

Congress that I have received their memorandum; that I regret the delay in replying to it; that in the meantime, they should understand that their criticisms have been and are still under consideration; and that the policy of the Government in regard to the Westham report is ~~not~~ *not* to be completed finally until...

*I should omit
B.H.K.*

(below 25)
(No. 26)
(10220/27)

Tel. of 26 Aug.
No. 21.

*Seq. 2929
Not attached
B.H.K.*

*Impressions
of the
Secretary
of State
for
Africa*

We obtained a copy of this petition semi-officially from the India Office on 4th October, but beyond a reference to it in Secretary of State's telegram of 11th October, no official action has been taken on it pending the forwarding of the actual petition by the Governor.

It is a little difficult to suggest a reply in view of the following facts:-

(a) The Secretary of State has already notified the Governor that he was prepared to approve generally the recommendations of the Commission regarding Nairobi and environs, unless any serious obstacle from public opinion had arisen or appeared likely to arise.

(b) Although the petition was sent to the Governor on 12th August, (thus definitely showing that serious opposition to the recommendations was felt in Indian quarters) he stated in the Legislative Council on 30th August that the recommendations regarding Nairobi had been approved by the Secretary of State (without mentioning the condition attaching to approval) and said that he hoped legislation would be introduced promptly to give effect to them.

(c) The petition was held up by the Government of Kenya for four months.

(On this point, I do not see how the reason given, that it was assumed that a copy had been sent direct to the Secretary of State, can be accepted. Col. Regulations 212 and 213 definitely require all persons or public bodies in a Colony to submit petitions to the Secretary of State through the Governor, and the Nairobi Secretariat cannot be unaware of this, especially as the Regulations provide

provide that all petitions sent direct will be referred back to the Governor for a report, and this is frequently done.)

(d) The Governor does not offer any comment on the petition, although he is bound to do so by Col. Regulation 215.

So far as is shown by these papers, the present position is that the Secretary of State expressed the hope (in a telegram dated 11th Oct. 1927) that action on the Report would be deferred until the Government of India had had an opportunity to make representations, if it desires. There is therefore there should be no necessity to answer the petition immediately and I do not think the attempt should be made without some further assistance in the way of comment that the Governor has yet given. (It is not an error to say in any case adequately to rest the burden still on the Secretary of State. I do not know if an attempt has been made to suggest that the Secretary of State should make further representations, but some such action seems to be called for.

2. Acc. receipt (Conf. despatch) and express regret that the forwarding of the petition should have been so long delayed, especially in view of the fact that the Secretary of State in his telegram of 25th Aug. expressed his preparedness to approve generally the Report as regards Nairobi and environs only on the understanding that

Copy of Govt. Secy. to Govt. of India to forward the petition with all necessary papers to the Secy. to Govt. of India.

It might be necessary to inform the Congress. The Secretary of State has not yet made any decision on the matter.

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no serious opposition from local opinion was likely. And say that the Secretary of State considers that it should not have been assumed that a copy of the petition had been forwarded to him direct, in view of the very definite provision to the contrary in Colonial Regulations 212 and 213. Then refer to the Secretary of State's cypher telegram of 11th October, (No.25) in which the hope was expressed that action would be deferred until it is known whether the Government of India wishes to make any representations; say that in the circumstances Secretary of State does not propose to make his reply to the petition for the moment, and before considering it further will await the receipt of the Governor's report on it in accordance with Colonial Regulation 216. Ask that in the meantime the Congress may be informed of the reasons for the delay in Secretary of State's receiving the petition, and for his decision to defer replying for the present.

1928



KENYA.

GOVERNMENT HOUSE,
NAIROBI,
KENYA.

No. /33

16 December 1927

CONFIDENTIAL

RECEIVED
14 JAN 1928
COL. OFFICE

X
10220/27
A2.21

Sir,

With reference to your telegram of the 26th August on the subject of the recommendations of the Local Government Commission in regard to Nairobi, I have the honour to transmit three copies of a memorandum dated the 12th August addressed to you by the Secretary to the Executive Committee of the Eastern Africa Indian National Congress. I regret that this was not forwarded to you at an earlier date, but I was under the impression that a copy had been sent to you direct by the Secretary to the Congress. The whole question has been given very full consideration.

Measures to meet Indian Criticisms of the Report are being considered and suggestions will be submitted to you in due course.

I have the honour to be,

Sir,

Your most obedient, humble servant,

W. D. G. G. G.
GOVERNOR.

THE RIGHT HONOURABLE
LIEUTENANT COLONEL L. G. M. S. A. M. P. C. K. P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET, LONDON, S.W.



KENYA

No. /33

GOVERNMENT HOUSE,
NAIROBI,
KENYA.

CONFIDENTIAL

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I regret that this was not forwarded to you at an earlier date, but I was under the impression that a copy had been sent to you direct by the Secretary to the Congress. The whole question has been given very full consideration.

2. Measures to meet the needs of business of the Report are being considered and suggestions will be submitted to you in due course.

I have the honour to be,

Sir,

Your most obedient, humble servant

Frederick D. ...
GOVERNOR.

RIGHT HONOURABLE
LIEUTENANT COLONEL L. S. S. ABERY, F.C. M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET, LONDON, S.W.

The Eastern Africa Indian National Congress
Executive Committee's Office

P. O. Box No. 186.

Telephone No. 382

Telegraphic Address

"CONGRESS"

Reference No.....

NAIROBI, 14th August 1927.

To,

The Secretary of State for the Colonies,

L O N D O N .

England.

Re: Report of the Kenya Local Government Commission.

Sir,

I am directed by the Executive Committee of the Eastern Africa Indian National Congress to submit to you the following observations on the report issued by the Kenya Local Government Commission, for your favourable consideration and action.

As you must be aware, Sir, the Indian population residing in this Colony felt very sore at the decisions embodied in the White Paper of 1923 which were very unfair to them and which virtually relegated them to second-class citizenship. But although we were still smarting under this palpable injustice, we had decided, acting on the advice of the Government of India, to call off the boycott which we were compelled to start in 1924, and we expressed our readiness to co-operate with the Government in the hope that we will be accorded our due and legitimate share in the civic life of the Colony in due course. Thus after protracted discussions and conferences and the appointment of a commission our community had decided in 1924 to accept four seats on the

Nairobi

Nairobi Corporation as against six seats allotted to the European community. The Local Government Commission's majority report is now aiming at reducing our representation on the Nairobi Corporation still further by the inclusion of certain suburbs in the Municipal area - Eastleigh, Muthaiga, Upper Parklands and Kilimani

- giving one seat to each suburb, which would mean that there will be one additional Indian Councillor as against three more European Councillors, - the Asians only getting 6 seats out of a total of 15 in the proposed constitution. This, we submit, is a retrograde step.

The municipal representation ought to be, as is in all civilized communities, proportional to the taxation. The recent Commission has enunciated a very pernicious principle of extra representation to the Europeans on the grounds that it is necessary to avoid racial friction. This, my community, will have to fight to the bitter end.

The injustice of this proposal would become easily apparent if we looked at the figures of revenue and population in the Nairobi Township:

Table of Population of the Community.

	Municipal Area	Suburban Area
Europeans	2668	900
Indians	7741	311

Table of Land Revenue and other Taxes.

	Land Tax	Water Tax	Conservancy	Total
Europeans	Sh/ 139579	105200	87072	331851
Asians	Sh/ 108235	65800	93868	267923

Before 1924 the European commercial and outside area was developed to the neglect of the Asian area, but since 1920

the inclusion of Asian members in the Corporation they have been able to secure a more liberal expenditure on their own area, although it was still less than what it should be. That the Corporation is better run since the advent of the Asian members resulting in a marked improvement in the condition of the town was admitted even by the European witnesses before the Commission. The Asian members on the Corporation have invariably refrained from bringing in 'racial' considerations to bear on matters of municipal administration, and in these circumstances we are at a loss to know why it is sought to reduce the proportion of their numbers. The Asiatics are assuredly entitled to a larger representation than the Europeans, to judge by their numbers, and to judge by their respective financial contributions, they are entitled to an equal amount of representation.

A corporation should be run on strictly business lines harmonizing expenditure with revenue, the sources of which should be borne in mind when determining the former, even at the present time the commercial area (in which more revenue is derived from the Asian community) is put to a lot of extra expense on account of the near outside areas included in the town. After the inclusion of the four suburbs the revenue is estimated to increase by £ 4710, while the Commission cannot even indicate the expenditure, which is bound to be much more than the income. Thus it is an absolutely unbusinesslike proposal to bring in these suburbs, which ought to be managed by themselves. This extra expenditure will have to be borne by the

Commercial

commercial area, which means that more Asian money will be spent on European area than in the case at present, and in return for this the Asians are put to the disadvantage of lesser representation in the Corporation. The increase in the number of European seats is to be secured even at a financial loss.

My community has had previous experience how they have been starved of all reasonable municipal services, though they were paying the highest proportion of taxes to area occupied. Till recently the most crowded areas like River Road, Hebeiro Campes Avenue and Hazrat Estate had no lights and roads. Indian suburban development was discouraged and the only Indian suburb Eastleigh was not given a road of access, water or lights. My community is afraid that the same state of affairs will recur if the suggested preponderating European majority is obtained. My Committee therefore feels that no useful purpose will be served by the inclusion of extra suburbs in the Municipal area. Even if such inclusion were considered necessary, the basis of representation should be so arranged as to afford adequate protection of the interests of the several communities in proportion to their numbers and financial contribution to the Municipal revenue.

As to Mombasa the case will be much worse. The Hon. Mr. Pandya in his lucid minority report has discussed the situation thoroughly and my Committee agrees fully with it.

The arrangement suggested for other District Committees, except the one in Kisumu, has no provision for Indian representation in spite of the fact that the Indian interest in those places is considerable, and even in Kisumu, the only District Committee

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Committee on which Indian representation is suggested, it is given ^{me} by nomination and not by election implying thereby the inability of the Indian community to elect proper representatives.

As has been always maintained by my community a common electoral roll should be the ideal aimed for elective representation on all bodies, and Municipal Corporation and like bodies should be the first to bring this principle in practice, as they do not bring in any political issues.

In view of these facts, I am directed to express the hope that you will consider the advisability of setting aside the recommendations made in the majority report of the Commission in so far as they affect the interests of the Indian residents in Kenya and grant them adequate representation, proportionate to their numerical strength and financial contribution, on the different municipal bodies.

I have the honour to

Sir,

Your obedient servant.

S. D. KARVE

Secretary,
Executive Committee,
Eastern Africa Indian National Congress.

THE EASTERN AFRICA INDIAN NATIONAL CONGRESS

Executive Committee's Office

P. O. Box No. 186.

Telephone No. 382

Telegraphic Address
"CONGRESS"

Reference No.

NAIROBI 12th August 1924

To,

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Sir,

I am directed by the Executive Committee of the Eastern Africa Indian National Congress to submit to you the following observations on the Report issued by the Kenya Local Government Commission, for your favourable consideration and action.

As you must be aware, Sir, the Indian population residing in this Colony felt very sore at the decisions announced in the White Paper of 1923 which was very unfavourable to them and which virtually relegated them to second-class citizenship. But although we were still working under this palpable injustice, we had decided, acting on the advice of the Government of India, to call off the boycott which we were compelled to start in 1924, and we expressed our readiness to co-operate with the Government in the hope that we will be accorded our due and legitimate share in the civic life of the Colony in due course. Thus after protracted discussions and conferences and the appointment of a commission our community had decided in 1924 to accept four seats on the

Nairobi

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The municipal representation sought to be, as is in all civilized communities, proportional to the taxation. The recent Commission has enunciated a very pernicious principle of extra representation to the Europeans on the grounds that it is necessary to avoid racial friction. This, my community, will have to fight to the bitter end.

The injustice of this proposal would become readily apparent if we looked at the figures of rates and population in the Nairobi Township:

Table of Population of the Communities.

	Municipal Area	Suburban area
Europeans	2305	900
Indians	7761	311

Table of Land Revenue and Other Taxes.

	Land Tax	Water Tax	Conservancy	Total
Europeans	Sh/ 139579	105200	87072	331851
Asians	Sh/ 108233	55800	93888	267923

Before 1924 the European commercial and outside area was developed to the neglect of the Asian area, but since the

the inclusion of Asian members in the Corporation they have been able to secure a more liberal expenditure on their own area, although it was still less than what it should be. That the Corporation is better run since the advent of the Asian members resulting in a marked improvement in the condition of the town was admitted even by the European witnesses before the Commission. The Asian members on the Corporation have invariably refrained from bringing in racial considerations to bear on matters of municipal administration, and in these circumstances we are at a loss to know why it is sought to reduce the proportion of their numbers. The Asians are assuredly entitled to a larger representation than the Europeans, to judge by their numbers, and to judge by their respective financial contributions, they are entitled to an equal amount of representation.

A corporation should be run on strictly business lines harmonizing expenditure with revenue, the sources of which should be borne in mind when determining the former, even at the present time the commercial area (in which more revenue is derived from the Asian community) is put to a lot of extra expense on account of the near outside areas included in the town. After the inclusion of the four suburbs the revenue is estimated to increase by P 4710, while the Commission cannot even indicate the expenditure, which is found to be much more than the income. Thus it is an absolutely unbusinesslike proposal to bring in these suburbs, which ought to be managed by themselves. This extra expenditure will have to be borne by the

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commercial area, which means that more Asian money will be spent on European area than is the case at present, and in return for this the Asians are put to the disadvantage of lesser representation in the Corporation. The increase in the number of European seats is to be secured even at a financial loss.

My community has had previous experience how they have been starved of all reasonable municipal services, though they were paying the highest proportion of taxes to area occupied. Till recently the most crowded areas like River Road, Rebeiro Campos Avenue and Bazarat Estate had no lights and roads. Indian suburban development was discouraged and the only Indian suburb Eastleigh was not given a road of access, water or lights. My community is afraid that the same state of affairs will recur if the suggested preponderating European majority is obtained. My Committee therefore feels that no useful purpose will be served by the inclusion of extra suburbs in the Municipal area. Even if such inclusion were considered necessary, the basis of representation should be so arranged as to afford adequate protection of the interests of the several communities in proportion to their numbers and financial contribution to the Municipal revenue.

As to Mombasa the case will be much worse. The Hon. Mr. Pandya in his lucid minority report has discussed the situation thoroughly and my Committee agrees fully with it.

The arrangement suggested for other District Committees, except the one in Kisumu, has no provision for Indian representation in spite of the fact that the Indian interest in those places is considerable, and even in Kisumu, the only District

Committee

The EASTERN AFRICA INDIAN NATIONAL CONGRESS

Executive Committee's Office

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P.O. Box No. 186.
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The injustice of this proposal would be even more apparent if we looked at the figures of revenue and population in the Nairobi Township :-

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Committee

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representation on all bodies, and Municipal Corporation and like
bodies should be the first to bring this principle in practice,
as they do not bring in any political issues.

In view of these facts, I am directed to express
the hope that you will consider the advisability of setting aside
the recommendations made in the majority report of the Commission
in so far as they affect the interests of the Indian residents
in Kenya and grant them adequate representation, proportionate
to their numerical strength and financial contribution, on the
different Municipal bodies.

I have the honour to be

Sir,

Your obedient servant,

S. S. D. KARVE

Secretary,
Eastern Africa Indian National Congress,
Executive Committee.