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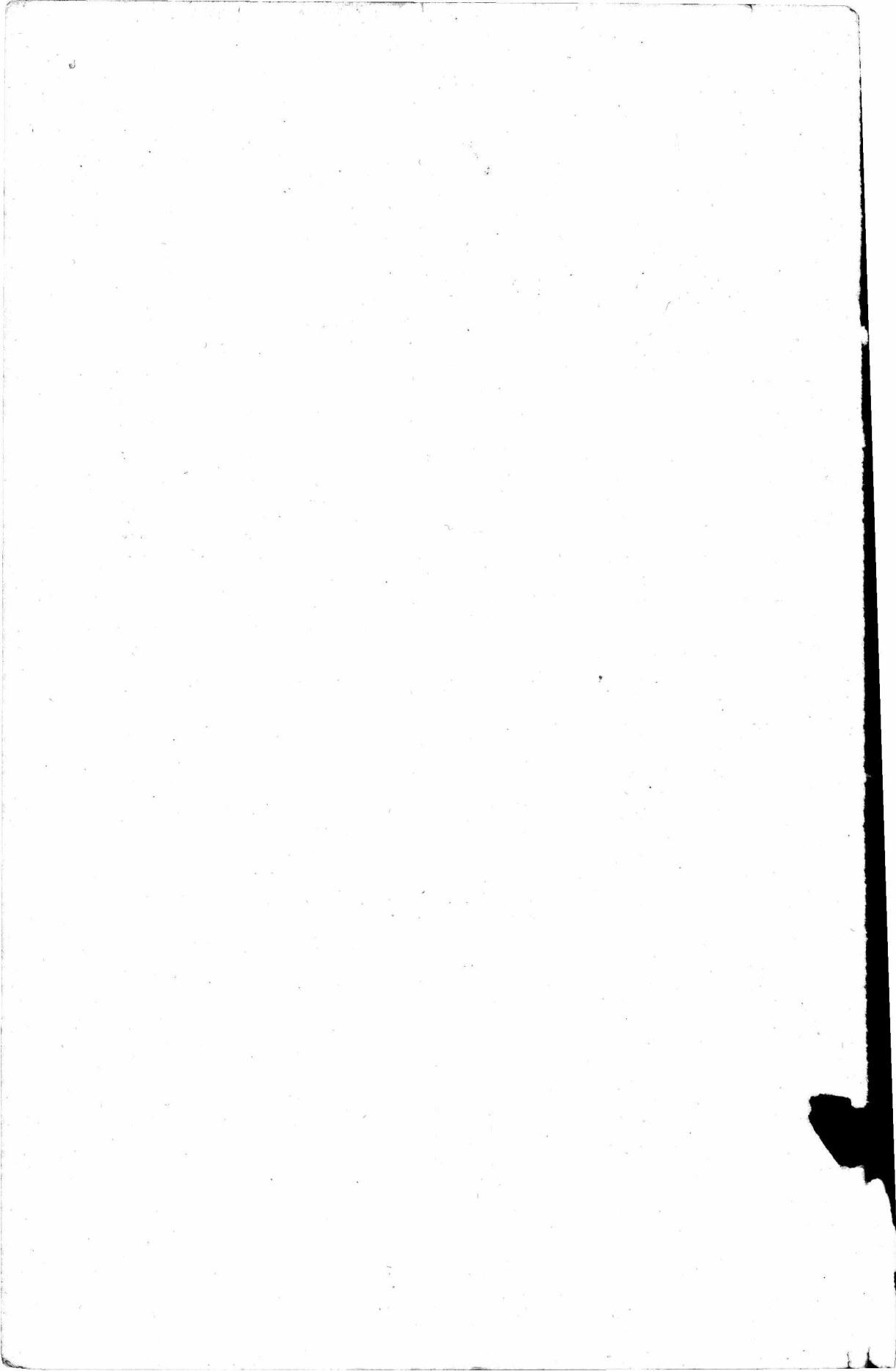
REPUBLIC OF KENYA

**REPORT OF THE
LOCAL GOVERNMENT COMMISSION
OF INQUIRY**

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**REPORT OF THE
LOCAL GOVERNMENT COMMISSION
OF INQUIRY
1966**

HIS EXCELLENCY THE HON. MZEE JOMO KENYATTA, M.P., PRESIDENT AND
COMMANDER-IN-CHIEF OF THE ARMED FORCES OF THE REPUBLIC OF KENYA.

Your Excellency,

We were appointed by your Commission, published as Gazette Notice No. 1007 of 22nd March 1966, with the following terms of reference:—

“To inquire into and advise on the reforms necessary to make the local government system in Kenya a more effective instrument for the provision of local services and local development within the frame-work of national policy and national programmes, and more particularly—

- (a) the composition and constitution of local authorities;
- (b) the mandatory and permissive functions of local authorities;
- (c) whether certain services at present the responsibility of local authorities should be provided by other bodies and, if so, the nature and constitution of such bodies;
- (d) the extent and nature of Central Government control over local authorities;
- (e) the general financial situation of local authorities including their taxation potential and how revenue to meet the cost of services provided by them should be raised and from what sources;
- (f) the extent and nature of Government contributions to local authorities;
- (g) the means of strengthening the quality and security of local government staff, including appointments and discipline;
- (h) allowances (if any) to be made to members of local authorities;
- (i) generally, the means of improving the capacity of local authorities to contribute towards the implementations of the National Development Plan,

and to report the results of such inquiry, the conclusions arrived at and the reasons leading thereto, and to make any recommendations that the Commission may consider desirable or necessary.”

For the reasons stated in our report we have not been able to make a conclusive recommendation on item (f)—“the extent and nature of Government contributions to local authorities”.

2. That there is a wide national interest in local government is demonstrated by the fact that we have received over 150 memoranda, not only from Ministries and local authorities, but also from various organizations and private individuals. In the course of our Inquiry we have heard oral evidence from over 100 of these, in Nairobi and at various places throughout Kenya. We wish to thank those who provided accommodation for these hearings.

3. In submitting this Report

We have the honour to be,

Your Excellency,

Your most obedient servants,

(Signed) W. S. HARDACRE,

Chairman.

R. S. MATANO,

Member.

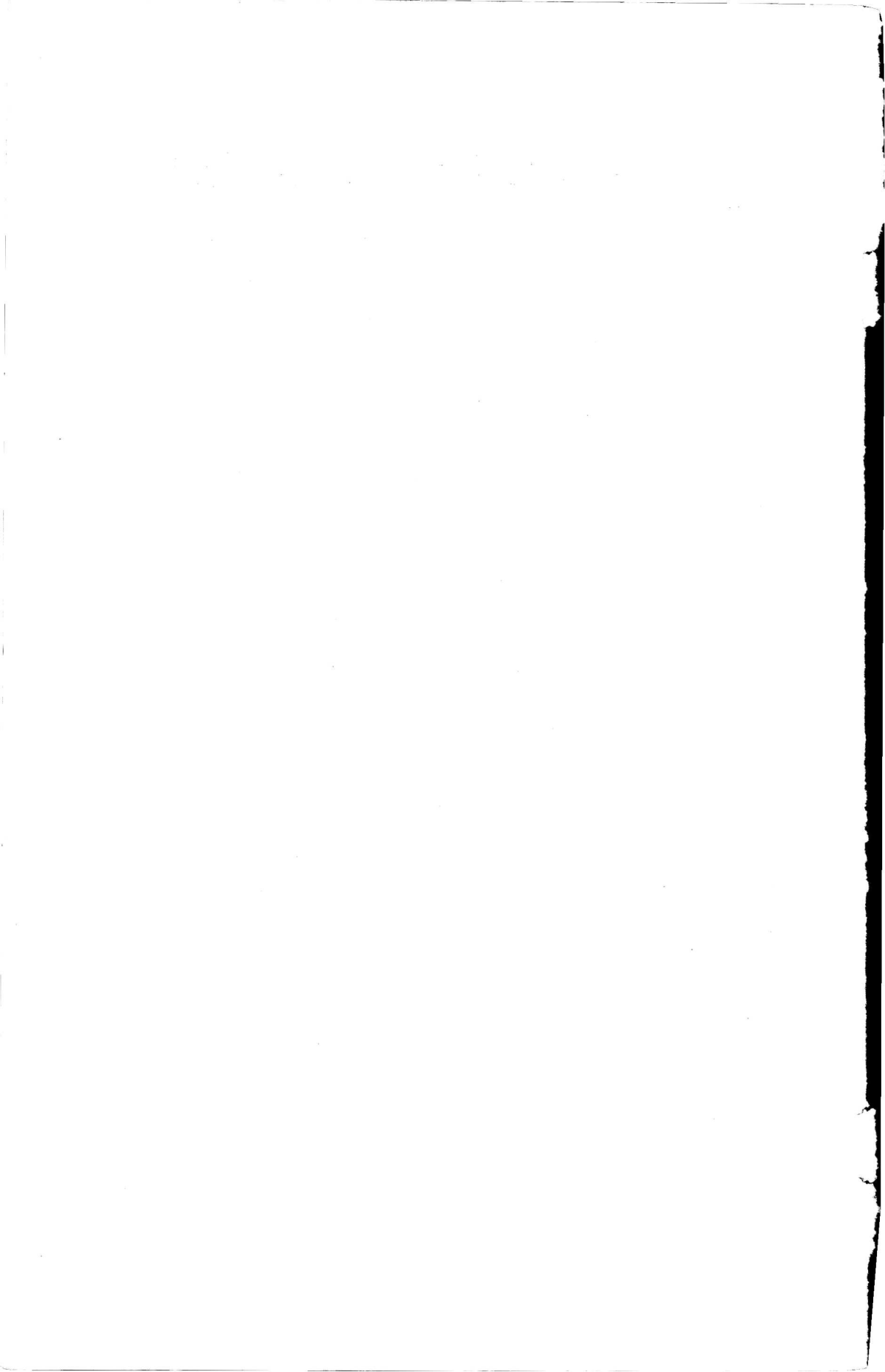
J. MWANGI,

Member.

B. A. OGOT,

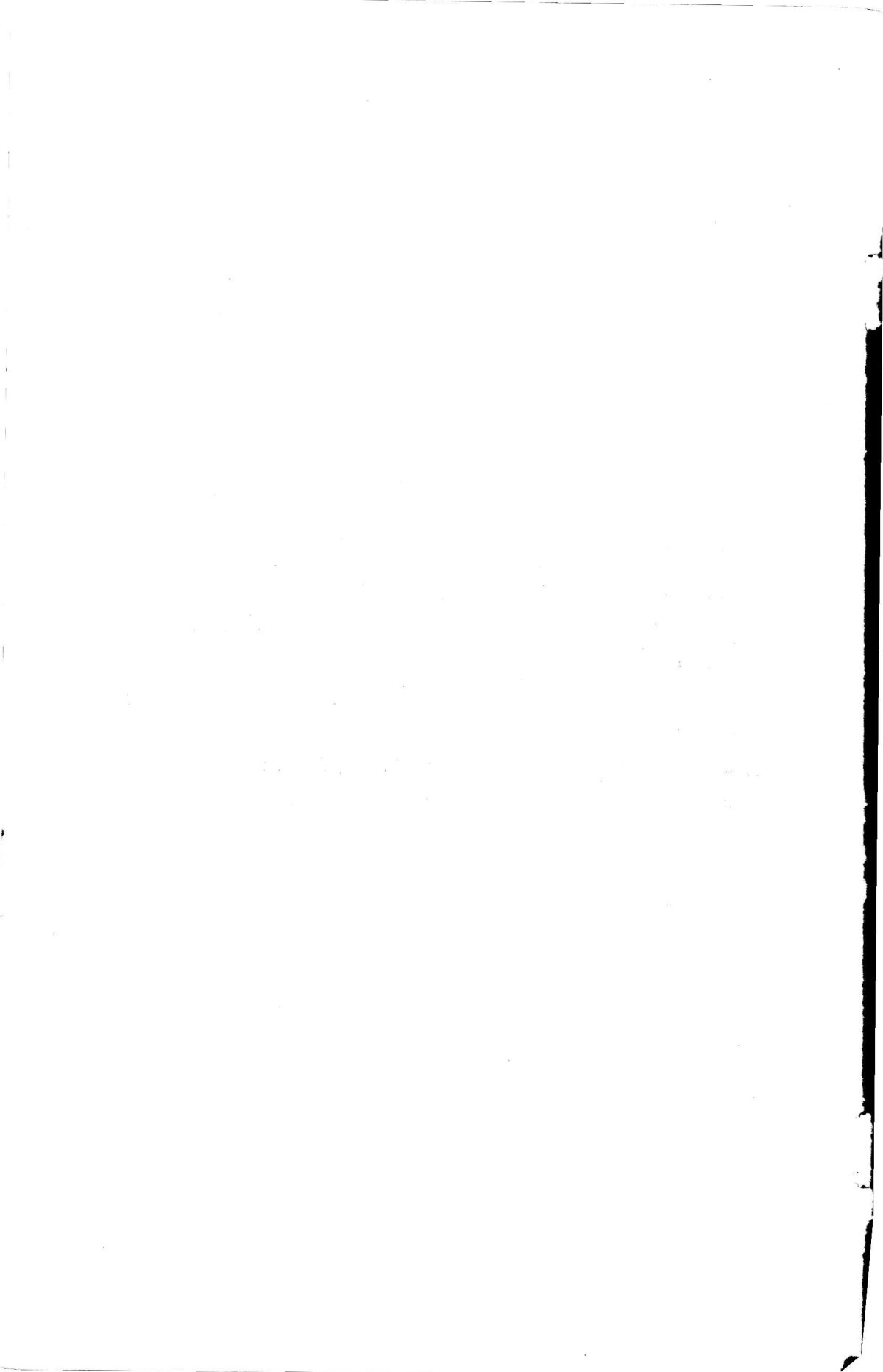
Member.

Nairobi,
7th September 1966.



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CHAPTER ONE—THE DEVELOPMENT OF LOCAL GOVERNMENT IN KENYA

It is useful, before commencing our review of the present system of local government in Kenya, to recall briefly the stages by which this system has been developed. There were three main streams of development, which can conveniently be considered separately.

LOCAL GOVERNMENT IN THE URBAN AREAS

Understandably, modern local government appeared first in the urban areas, where the relatively greater density of population was more conducive to its development, and indeed made it more essential. The townships of Nairobi and Mombasa were established in 1903, initially with township committees whose membership was composed largely of officials. In the course of time these committees became more representative and this form of local government was applied to other pockets of urban development.

Nairobi and Mombasa became formal municipalities with the passing of the first Municipalities Ordinance in 1928, and four other towns were created municipalities thereafter. Meanwhile the system of townships was continued in the smaller urban centres.

At first the functions of the local government authorities in these urban areas were restricted to the provision of urban sanitary services and the like, largely financed by fees. With the introduction of unimproved site value rating, the range of services was gradually extended.

LOCAL GOVERNMENT IN THE "AFRICAN AREAS"

Local government in what were termed the "African areas" (as opposed to the "settled areas") was, in origin, an adjunct of the then colonial system of provincial and district administration. In 1924 local native councils were established with the district commissioner as chairman and chief executive authority. They were given the power to levy poll rates, and began, under the wing of the Provincial Administration, to undertake a fairly wide range of services. In 1946 the system was extended by the introduction, mainly in Nyanza and Central Provinces, of locational councils as a second tier of local government below the local native councils. These locational councils were under the chairmanship of, and advisory to, the locational chiefs.

The subsequent African District Councils Ordinance of 1950 was a major step towards a democratic system of local government in the African areas. Though the district commissioner still remained the chairman of the council, with considerable powers of control, and the administrative chiefs still made up a proportion of the membership, there was usually a majority of elected members, and the new councils had greatly enhanced status and powers. With this further development it became necessary for the Government to issue a White Paper in 1957 defining the respective responsibilities of the Government and the African district councils in respect of the major services. From 1958 many of the African district councils began to have non-officials as chairmen, though usually nominated from amongst the members of the council by the Provincial Commissioner, rather than elected by their fellow-councillors.

A noteworthy development was the introduction, in Central Province, of non-statutory divisional councils, in the late 1950s and early 1960s. These bodies were composed of representatives of locational councils in an administrative division, and met to consider matters to be brought to the attention of the African district council.

LOCAL GOVERNMENT IN THE "SETTLED AREAS"

The introduction of local native councils in the African areas was closely followed by the setting up of district councils in the settled areas (i.e. those areas which had been set aside for settlement by European farmers), upon the recommendation of the Feetham Report of 1927. These councils, however, were largely road authorities, and their principal source of income was Government road grants. In 1952 the district councils became county councils, with a slightly wider range of activities, and with a second-tier of local government below them—namely urban and rural district councils. By the early 1960s all of the county councils had introduced some form of land rating as a second major source of income, and most of them had started to provide health services in their areas with the assistance of Government grants.

THE PRESENT SYSTEM OF LOCAL GOVERNMENT

In 1963, with the approach of Independence, it was necessary to have a uniform system of local government throughout the country. The system introduced by the Local Government Regulations of 1963 was necessarily very flexible, in order to accommodate without too much disruption the three distinct streams of local government mentioned above. In each district the district commissioner held an inquiry to determine the most suitable form of local government, and his recommendations were forwarded to Government for promulgation in a series of local government orders.

The new system provided for two types of major local authorities—municipal councils and county councils. Municipal council status was granted to the six already existing municipalities, and the new municipality of Thika was created. The rest of the country was covered by county councils, which replaced the existing African district councils and county councils.

The Regulations provide for three types of minor local authorities:—

Urban Councils—which replaced the more developed townships and urban district councils.

Area Councils—which replaced rural district councils and the non-statutory divisional councils, and in some counties were created by amalgamation of several of the old locational councils, while in a few instances in Rift Valley former African district councils became area councils under a new and larger county council.

Local Councils—which replaced the old locational councils in those areas where it was considered inappropriate to change to the larger area councils. In two instances local councils were created within the boundaries of municipalities.

It should be mentioned, however, that large areas of the country are still not covered by any second-tier local authorities.

The Local Government Regulations did not deal with the question of the financial resources of these new local authorities; under separate legislation graduated personal tax was introduced as a principal source of revenue for municipal and county councils, replacing the former poll rates levied by the African district councils. Rating was continued in urban areas and in some of the rural areas where it was already in operation.

The Regulations were designed to bring all the local authorities directly under the control of the Ministry of Local Government, though provision was made for continued liaison with the Provincial Administration by nominating the appropriate district commissioner a member of each municipal and county council, and by corresponding nomination of junior officers of the Provincial Administration to the lower-tier local authorities. In the event, of course, almost concurrently with the establishment of the new local authorities, the Regional Assemblies of the Independence Constitution were being set up, with full powers over local government in their respective regions. These powers reverted to the Ministry when Kenya became a Republic at the end of 1964.

CHAPTER TWO—THE BROAD PATTERN OF ADMINISTRATION OF LOCAL GOVERNMENT

It is useful at the outset to review the general pattern and distribution of responsibility in connexion with the administration of local government in Kenya.

First of all, the Ministry of Local Government is the media through which the Government have decided how the local government services shall be organized and maintained. The Ministry's functions are as follows:—

Local Government.

Liaison with Local Authorities on Local Government matters.

The Local Government Loans Authority.

The Local Authorities Provident Fund.

Training of Local Government Staff.

Bursaries and Courses for Members and Staff of Local Authorities.

Local Authority Audit Service.

The Ministry is provided with its own Minister and Assistant Ministers who are the connecting link between Parliament and the Ministry, and in a real sense between Parliament and local government as a whole. Behind that parliamentary link and ministerial responsibility is the support of the professional secretariat and permanent staff.

Branching out from that Ministry are the forty major local authorities of Kenya. The seven municipalities cover Nairobi and Mombasa, with populations in the two to four hundred thousand range, down to modest towns like Kitale and Thika with ten to fifteen thousand population; whilst the counties range from Kakamega with over six hundred thousand population down to Lamu with only twenty-three thousand. Within the counties there are at present minor bodies, such as area and local councils, with modest services. Some are very large as far as area and population go, and some quite small.

All those authorities come within the ambit of the Ministry of Local Government; and if local government is to be successful in the fulfilment of its responsibility, including the administration of local government services, then the association between that Ministry and the local authorities must be not only close and complete, but in every sense a working partnership. If that is to be achieved and maintained, the overall pattern of administration must provide that in anything affecting local government, the Ministry of Local Government must be the real link and the co-ordinating factor for information and administrative control.

We have found here and there some misconception about the autonomy of local authorities; and it has been suggested that by giving someone powers of veto over the actions of local authorities, much of any present difficulties would be overcome. In the opinion of the Commission this shows a lack of knowledge of the present position. In point of fact, the local authorities have little real autonomy and, as will be seen elsewhere, their expenditure and activities are very much subject to statutory controls. The lack of adequate staff to operate those controls is the cause of some of the current problems. The Ministry of Local Government is, and must of necessity continue to be, the body to decide and indeed apply any requisite control. More than that, they must be the central factor in seeing to the proper place which local government has to achieve and maintain in the life of the country.

The Minister for Local Government must, of course, look to the Government for a fair allocation of finance and a fair allocation of whatever competent staff and administrators are available. Only in that way can this Ministry, after allowance for priorities in a rapidly developing country, provide a fair stewardship for the responsibility which Central Government has allocated.

In return, Government can rightly expect the Ministry of Local Government to keep them informed not only of the achievements of local government, but also of their problems—not least because these have a direct effect on the standard of local government services which can be made available in all parts of the country. Only then can Government be aware of the progress which local government is making in implementing the broad expected policy. In this connexion, the Commission see an essential need for an annual report to be published by the Ministry of Local Government, and to be made available generally, as well as to Parliament.

In its turn, the individual local authority must accept some broad pattern of control to be exercised by the Minister for Local Government. That measure of control must be effected, and indeed affected, by the supply of adequately trained staff within the local government service, and also by a constant and close association between the Ministry and the local authority. The Commission feel that the present Association of Local Government Authorities of Kenya can provide an adequate meeting place between the two. This is a form of contact whereby the Association can give its comments on proposed changes or developments on all matters affecting local government. More than that, the Association can make a very real and practical contribution to the constant development of efficient local government. There is also value in the occasional meetings between the Minister, his principals, and this Association, thereby offering opportunities for a mutual exchange of views on the broad present and future policies of local government. In that mutual and constant working together there would be a direct contribution to the partnership which needs to exist between the Ministry and the local authority. Of equal importance, that partnership would be seen to exist.

Local government is probably unique in that it affects in some way or another all people in all parts of Kenya. It is therefore essential that any pattern of local government should have a clear line of communication, through the people and their chosen representatives in the individual local authority, sometimes through the local authority's own Association, but in any case finally to the Minister. In that way we come back to our main point, that to meet the responsibility allocated by Parliament to the Ministry of Local Government, that Ministry must, and must be expected to be, the real central and co-ordinating body for all matters pertaining to local government and its requirements. The people must be able to look to their local authorities who in turn must be able to look to their Minister for overall guidance and control.

CHAPTER THREE—INITIAL COMMENTS

Before we approach those specific matters referred to this Commission it is desirable that we should indicate four main features which have recurred constantly throughout our proceedings.

The adequacy of the administrative and financial controls contained in the Local Government Regulations and the manner in which those controls are implemented.

A need for co-ordination between the Ministry of Local Government, the local authorities and also the Treasury and those Ministries which have some connexion with local government.

A period of consolidation in local government, bearing in mind the need for a considerable and urgent improvement in the staffing position, both at Ministry level as well as within individual local authorities.

A satisfactory relationship between services and financial resources.

In the following report, it will be seen therefore that in the main we reflect problems and aspects of administration and finance, the need for proper appraisals before changes or extensions are made, and the need for adequate timely consultation between those who decide policy and those who have the day-to-day job of implementing it among the people. Whilst local government involves policy as well as administration, sound local government hinges a good deal on proper administration which has to have a constant regard to the future as well as the present.

Having said all that, it is very proper that we should pay some tribute to the achievements of local government in Kenya. It needs to be remembered that local government in its present form has only been in existence since 1963, when the present local authorities were constituted concurrently with the Regional Assemblies. Since then the local authorities have had to cope with the effects of several major changes: for example—

introduction of graduated personal tax;

assumption of responsibility for the administration of primary education;

transfer of overall control in respect of Local Government to the Central Government;

introduction of free medical treatment for out-patients.

Bearing all this in mind, it can be said that whilst much remains to be done in the local government services, much has already been achieved.

CHAPTER FOUR—COMPOSITION AND CONSTITUTION OF LOCAL AUTHORITIES

We have reviewed the present composition and constitution of the local authorities in Kenya, and there are some comments which we would like to make, first of all, on the classification of local authorities.

FIRST AND SECOND CLASS MUNICIPAL AND COUNTY COUNCILS

There are seven municipal councils which, under the Local Government Regulations, are divided into two classes—one described as first-class municipal councils, of which Nairobi is the prominent example; and the second group, consisting of Kitale and Thika, described as second-class municipalities. Similarly, 33 county councils are divided into first-class and second-class county councils. The difference between the two classes is, in each case, very limited and has nothing to do with the respective powers of these authorities. In the case of the municipalities, for example, the differences are only that the second-class do not have the power to elect either a mayor or aldermen. In the circumstances we are of the opinion that the maintenance of these narrow distinctions might well be discontinued.

We are, however, concerned that even the smallest municipality can have the same range of powers as the largest city or county council. We feel that this matter is one for review and that for certain services the small municipality is not a large enough unit for the adequate and economic provision of these services—e.g. health services. In our opinion a county and a small municipality might well be merged for the provision of certain services as one unit working under a joint committee. The administrative arrangements and financial work might well be left with the officers of the municipality which, on the whole, are more adequately staffed. This arrangement would also seem to reduce the demand for separate Central Government officers and seconded officers to serve adjoining authorities.

MEMBERSHIP GENERALLY

Membership of county and municipal councils is made up as follows

- (a) A number of elected councillors, with provision in appropriate cases for special representation, e.g. ratepayers.
- (b) The Minister also has power to nominate a certain proportion of the total membership.
- (c) By agreement with any adjoining council one councillor may be appointed by that council.
- (d) In a few cases councils also elect aldermen.

COUNTY COUNCILS—METHOD OF ELECTION

Whilst many of the councils have direct elections for elected councillors in their authority, there are a few county councils where the elected councillors are in fact elected by second-tier councils within their area. For example, the composition of Laikipia County Council is as follows

Euaso-Nyiro Area Council, seven members.

Nanyuki Urban Council, five members.

Thomson's Falls Urban Council, three members.

Mukogodo Area Council, three members.

There is room for some flexibility in local government and some experimentation and certainly we have no adverse comment to raise on councils where the county councils' members are elected indirectly. We see no reason to suggest that the present arrangement should be disturbed. If the Commission's suggestions regarding the second-tier authorities in administrative counties, referred to later in this chapter, are adopted, then the Commission favour this form of indirect election. The Commission are satisfied that this ensures a very close relationship between the county council and the second-tier authorities, and indeed the inhabitants covered by that second-tier authority. This is particularly valuable in connexion with the development programme of local government services.

RESERVED SEATS

Whether some part of the elected members should still represent particular classes of voters, e.g. ratepayers, is a matter for consideration. So far as we can ascertain, this was a transitional arrangement in 1963. Now that graduated personal tax is a major part of a local authority's revenue, it seems difficult to justify this continued special representation and the Commission recommend that it should be discontinued.

NOMINATED MEMBERS

The subject of nominated members has also been a matter of comment before the Commission. This comment follows two main trends:—

- (a) That nomination is no longer necessary and that all councillors should now be elected.
- (b) That nomination might continue, but should be made by or in association with the local authority concerned, possibly by the Minister appointing nominated members only from a list of suitable names submitted by the local authority.

The Commission are of the opinion that at this stage of development in local government, it would be unwise to abandon the power or method of nomination. At some occasion in the future, however, this provision for nomination might, in authorities where they have a good administrative and financial record, be either abandoned or restricted in scale.

FORESTRY REPRESENTATION

Our attention has been drawn to the position in certain parts of the country where the Forestry Department are represented on county councils. We now understand that some of this representation could be dispensed with, but there are at least three county councils where, in view of the large interest in forestry lands, the Forestry Department feel that they should be represented on the county council. Whilst we see no need to provide for these cases to be dealt with statutorily, we think that the Ministry might bear this in mind in deciding upon the list for nominated members.

SPECIAL NOMINATIONS

We have given some thought to what are often described as the "weaker authorities". Generally speaking, the need is to strengthen them with people of sufficient business experience or certainly wider education so that they can come to proper decisions and give a sound and fair local government service in their area. Whilst obviously adequately qualified staff go a long way towards meeting this point, we are of the opinion that the Minister ought to have more flexible powers to appoint nominated members in such cases. Any power of increased

nomination for "weaker authorities" needs, of course, to be controlled and it should be a temporary authority only but renewable where necessary by a statutory order or something of that nature every two or three years. Within that period a weaker local authority might produce evidence of a sound administrative and financial record. That authority ought then to have the opportunity of claiming that any increased nomination should be abandoned. After all, the whole point of increased nomination is to endeavour to "step up" the weaker local authorities' efficiency and when that is achieved this exceptional arrangement might well be dropped.

ALDERMEN

The aldermanic system was apparently introduced to provide continuity of council membership; and also to enable councils to retain the services of experienced people who perhaps may not wish to offer themselves for popular election. In the latter case, aldermanship is more of an honour bestowed on a councillor. It is true that the aldermanic bench as it exists in Kenya performs the first function. It is, however, of doubtful utility regarding the second function, particularly at this stage of local government development.

It has been suggested that some councillors, without any real experience, have been elected to the aldermanic bench, and also that a few of them have been people who, in any case, are not likely to contribute anything extra to the efficiency of the council. It may be argued, therefore, that specific qualifications for the aldermanic bench should be laid down, but whatever qualifications might be suggested, these would be likely to conflict with an accepted right of councillors to elect their own aldermen. Furthermore, the system is liable to political abuse. It is tempting for parties or factions to swell their ranks in the council by electing as aldermen their supporters.

For all these reasons, it is recommended that the aldermanic bench be abolished, and that instead, continuity in a council be provided through a system of staggered retirement of councillors. So far as existing aldermen are concerned, it would be reasonable to allow them to remain in office for a limited further period, not exceeding four years, without further re-election and no new aldermen to be elected.

LITERACY QUALIFICATIONS FOR COUNCILLORS

The original provision in the 1963 Regulations was as follows: "A person shall be disqualified from being elected or being a councillor of a local authority if he . . . cannot read, write and speak the official language, or at least one of the official languages if there is one or more official language of the local authority." However, it is understood that in 1963 the Minister exercised the power given to him in the proviso to this Regulation to suspend its operation. The absence of this qualification must in practice create an unsurmountable difficulty if such persons wish to play a responsible part in local government. In view of the adverse comments which have been made to us in our proceedings, we recommend that all candidates for membership of municipal councils should be required to possess the same literacy qualifications as are applicable to candidates for the National Assembly, i.e. "able to speak, and unless incapacitated by blindness or other physical cause, to read the English language well enough to take an active part in the proceedings of the National Assembly". With regard to other councils, whilst it is appreciated that not all candidates in rural areas can be expected to reach this standard, we feel that some literacy qualification, preferably in Swahili, is essential.

EDUCATION OF NEW MEMBERS

We cannot over-stress this subject in the present conditions. Several apparently need guidance on such matters as the powers of local authorities, responsibilities of the individual member, the dividing line in the day-to-day life of a local authority between members and officers, and also the duties of chairmen of councils and committees. We understand that a simple "Local Government Members' Guide" would be acceptable, preferably in English and Swahili.

There are two other promising fields in the matter of education:—

- (a) A travelling team which could visit councils in their own chambers and have broad discussions with them on the common features of local government services and administration.
- (b) A periodic "Local Government in Kenya" magazine which might be produced by an editorial committee of A.L.G.A.K. and be used by them to publicize what is going on in various local authorities, to discuss on occasions topical features in local government administration, and in addition be a useful media for the Ministry of Local Government to "get over" important points of principle which need to be emphasized in the local government field from time to time.

RELATIONSHIP OF MEMBERS OF COUNCILS AND OFFICERS

On various occasions comment has been made to the Commission that members of certain councils interfere too much with the employees in their work. The Commission therefore feel it is well to remind all those concerned of the contents of the obligatory Standing Order No. 21 which is quite specific regarding the extent to which any member of a council can interfere in such matters. This Standing Order is set out in full in Chapter 9. The Commission think it very proper to remind all members of any council that they are not there to run the council services in detail. They are more concerned with policy and officers are concerned with the detailed administration.

TERM OF OFFICE—MAYOR OR CHAIRMAN OF THE LOCAL AUTHORITY

We have given a good deal of thought to this point, and we feel that the present one-year term of office for a mayor or chairman of a local authority is too short to enable the person elected to make an efficient contribution in that office. Obviously an excellent mayor or chairman is very valuable in any local authority. Nevertheless it is not desirable that he should remain in office too long. This for several reasons, not least of which is the importance of allowing other members to share the honour. It is also essential to have a reasonable number of members in any council who have had the benefit of experience in this particular office and are therefore more able to make a major contribution to the discussions within the council and its committees. We therefore recommend an initial period of two years with re-election only after another two-year period.

TERM OF OFFICE—COUNCILLORS

The period for which councillors should be elected has been a matter for discussion at nearly all our meetings with local authorities. So far as councils are at present concerned, the period of office at each election is three years, and then either the whole council comes up for re-election at the end of three years or one-third of the councillors have to be subject to re-election at the end of each year of the three-year period. The complaint about the last arrangement is that too frequent council elections disturb the work of the council. On the other hand, it is said that if the whole council is subject to re-election every third year, then it could mean a lack of continuity if an excessive number of new members were

to be elected to a council. Whilst we have no strong views on this matter, we have finally come to a conclusion that there is a case for a slightly longer period of election than three years. We therefore recommend a period of four years with one-half of the council being subject to re-election at intervals of two years.

REVIEW OF AREAS

On several occasions we have been approached regarding a review of a particular local government area, for example, a revision of Bungoma County and a merger of part with the adjoining County of Sirikwa. There have been other cases where we have been approached regarding the extension of the boundaries of municipalities.

Our general view is that to commence an isolated review of areas restricted only to local government areas would probably be unwise, as to some extent there is a relationship of local government areas with, for example, electoral areas and areas for the present provincial and district administration.

In addition, so far as local government is concerned, a review of any particular area is an involved process. There is the need to achieve a suitable unit for economic administration, to enable a reasonable representation of people and, amongst other things, the great importance of having a unit which has reasonable financial resources in relation to the other units of local government. It is also unreasonable to undertake a review until the general pattern of this report has been considered.

We have, however, promised to draw the attention of the Ministry of Local Government to this desire for a review of areas and we hope that this can be put in hand along with certain other revisions of areas which are apparently taking place in other fields of Central Government. As we have gained the impression that graduated personal tax favours the municipal councils, it may be as well to draw any municipal boundaries rather generously and so redress this balance.

There is also the general question of appropriate administrative authorities for the local government services. There are at present two main types of local authorities each of which relatively speaking have the same range of services.

The municipalities, which are one main type, are self-contained. That is to say, each municipality is the only local authority operating in its geographical area. We can ignore the two small exceptions, one of which arises within Nairobi City because the presence of one minor council within that area was an arrangement made when the boundary was extended in 1963. We agree with Nairobi City on this matter that this temporary arrangement should cease within five years' time by which time Dagoretti ought to be fairly well integrated within the City. There is also a small exception at Mombasa.

So far as county councils are concerned, the pattern for local authorities within their administrative areas varies. For example, in one county council area with 500,000 population, the following distribution exists

- One county council.

- Eight area councils.

Another county council area with 600,000 population has quite a different distribution

- One county council.

- One urban council.

- Sixteen local councils.

The annual expenditure of the various local authorities in five specimen counties is shown in Table I at the end of this Chapter. Whilst there is room for some flexibility in local government, it is not wise to have too many small local government units with little to do or indeed to show for the extra income they may collect over and above the normal local government taxes.

We have considered this point continuously since we first met. The Commission are reluctant to interfere too drastically with these small local councils which sometimes can be said to be local in every sense of the word. Bearing in mind the sheer inability of some of them to employ competent staff, and also the need to keep local services within units which can become efficient and attract good staff, we think there is an overwhelming case for reconsidering the pattern of local authorities within the administrative counties.

In our opinion, local government requires, within each administrative county, a range as follows:—

Major Authority.—One overriding authority which would be the county council and which should provide the main services throughout the administrative county.

Urban Authorities.—Some form of urban council or township council for those areas which have the semblance of a small town. Two quoted examples might be Nyeri and Malindi where there is a need for direct local interest in those local services which, properly administered, give those centres of population a better community life. In addition, Malindi has a particular interest in maintaining an area, which, apart from its natural attractions, can be a centre of tourism. If this suggestion were to be followed, then there is a case for some additional taxation powers within statutory limits to finance those local services—for example, street cleansing and open spaces. They should also have some direct voice in such matters as town planning and local water supply. A better form of paid administration and local councillors would also be possible in these cases where the county council could delegate to such urban authorities the administration and supervision of some of its own county council responsibilities. With such a county council delegation would have to go some allocation of county council funds which would have been spent anyway without delegation. The boundaries of such authorities ought not to be drawn too tightly.

Rural Authorities.—The only other local authorities in the county area, which might well cover the remaining parts, could be described as area councils; but the Commission wish to emphasize that in suggesting area councils they have in mind a complete recasting of both the areas and the powers of the present form of area councils. These new authorities would be responsible for some local services—for example, provision of markets—but would hardly justify more than a restricted number of meetings within any year. At these meetings, possibly held no more than quarterly, they could hear reports from the county council representatives for their area. In fact, it might well be a statutory duty of these county council representatives to attend these meetings and to be able to answer questions as to the way in which the county council was carrying out its statutory duties. In such a way the county council representatives would also be able to convey local opinion on certain matters to the county council. So far as staffing is concerned, there seems to be a very good case for the staff required being direct employees of the county council. Thereby, the conditions of service would be more attractive to any employees concerned and it is probable that the area councils would have the benefit of better quality staff.

If these suggestions were acceptable, then to ensure that both these urban and area councils would have a life of their own it would seem desirable that each county council should prepare what one might call a "scheme of county administration" for the Minister's approval. It is always desirable to give any local government authorities enough responsibility to attract good councillors. In this connexion we would recommend that the draft scheme should be published whilst it is awaiting the Minister's approval so that any existing local authorities could appeal against any of its provisions. We would hope that any financial arrangements would provide for all three types of authority in a county, i.e. county council, area councils and urban councils, to share those classes of local expenditure where a case can be justified—for example, adequate vehicle parking space in certain urban areas is of assistance not only to all urban authorities but also to those inhabitants from outside who frequent the urban area for shopping facilities and the like.

Whilst we make no specific recommendation on this point, nevertheless it may well be desirable if area councils are accepted in the above form, that whilst urban authorities in the same district may have certain individual powers, those urban authorities ought probably to come within the area council for certain purposes. In that case there could be representation from the urban council on to the area council; and in the opposite direction, it might well be desirable to have representation from the area council on to the urban council.

LIAISON COMMITTEE—NAIROBI CITY

We were asked by the City Council to consider the introduction of some form of special committee which might act as a liaison body between Central Government and themselves. This point was justified on the grounds of the particular position of Nairobi as the capital of Kenya and the seat of the Central Government. There is also the added point that various other national organizations have their offices within the City. It is difficult to see adequate terms of reference being agreed for a workable scheme. We have however referred to the problem of planned development in Chapter 11.

CITY STATUS

Representations have been made to us that Mombasa might be granted City status. This would not affect its local government powers but would, in the opinion of the local council, accord more with the increasing importance of Mombasa and in particular its standing as a thriving and growing seaport area. There seems to be justification for this claim, but it is really a matter for consideration by Central Government and we feel we can do no more than refer it for favourable consideration. Anything which is reasonable so far as local government is concerned and at the same time contributes to its dignity and strength is, in our opinion, something to be encouraged.

COMMITTEES

We have no particular point to raise on the number of committees or the size of membership, but we are referring under another heading to the need for certain statutory committees—for example, Education—and also the need to co-opt non-council members.

PRECEDENCE

We have had frequent representations that the place of the mayor or chairman of a council ought to be made clear, and that on all civic occasions in his own area he ought to take precedence after the President. It is not, in itself, a point which affects the matters referred to this Commission but we feel that, having been raised before the Commission, this might now receive favourable consideration, certainly so far as a mayor is concerned.

TABLE I—EXPENDITURE OF THE VARIOUS LOCAL AUTHORITIES IN FIVE SPECIMEN COUNTIES

COUNTY	SIRIKWA		GUSII		MASAKU		KISUMU		KAKAMEGA	
APPROX. POPULATION 1962 CENSUS	503,200		534,700		571,600		595,000		600,200	
	<i>Councils</i>	<i>Expen- diture</i>	<i>Councils</i>	<i>Expen- diture</i>	<i>Councils</i>	<i>Expen- diture</i>	<i>Councils</i>	<i>Expen- diture</i>	<i>Councils</i>	<i>Expen- diture</i>
		£		£		£		£		£
MAJOR AUTHORITY	County Council	640,000	County Council	488,000	County Council	697,000	County Council	619,000	County Council	750,000
STATUTORY MINOR AUTHORITIES	8 Area Councils	89,600	1 Urban Council	4,200	2 Urban Councils	31,000	1 Urban Council	200	1 Urban Council	8,700
			4 Area Councils	24,100	1 Local Council	1,300	1 Area Council	600	16 Local Councils	17,000
							17 Local Councils	18,900		
NON-STATUTORY MINOR AUTHORITIES	1 Town- ship	2,800			22 Local Councils	23,600				
TOTAL EXPENDITURE BY ALL LOCAL AUTHORITIES IN THE ADMINISTRATIVE COUNTY ..		732,400		516,300		752,900		638,700		775,700

The figures of expenditure used in the Table are taken from the 1965 revised estimates, or previous years.

CHAPTER FIVE—THE MANDATORY AND PERMISSIVE FUNCTIONS OF LOCAL AUTHORITIES AND WHETHER CERTAIN SERVICES AT PRESENT THE RESPONSIBILITY OF LOCAL AUTHORITIES SHOULD BE PROVIDED BY OTHER BODIES; AND IF SO, THE NATURE AND CONSTITUTION OF SUCH BODIES

We have combined these two references for the purpose of our report and it will also be noticed that towards the end of this chapter we have reviewed certain services which, in our opinion, might well be considered for transfer to local government.

The principal divisions of mandatory and permissive functions are set out at the end of this chapter. It will be seen that there are very few mandatory functions, and that most of the powers contained in the Local Government Regulations are in fact permissive. The Minister is empowered, however, to make any of these permissive functions in effect mandatory.

An unusual feature of the Regulations is the number of functions which may be performed by a county council or, equally, by an urban or area council. Some functions which are clearly the responsibility of the minor local authorities are largely of an "urban" nature, so that in practice area councils (which are largely rural) may have a very limited sphere of activities. It is noted that there is provision for a county council, with consent, to delegate to urban or area councils the discharge of any of its functions except those which it exercises by reason of being a local health authority; and that similarly an area council may, with consent, delegate to local councils. The Commission raise this point of delegation so that it can be looked at in connexion with any review of the type of minor authorities within county council areas, such as is suggested in the chapter on the Composition and Constitution of Local Authorities. If the number of these minor authorities is reduced, then it may well be desirable to delegate some of the county council's functions to this lesser number of minor authorities and make them stronger minor local authorities.

Functions Generally

In so far as the present major services are concerned—primary education, local health services and roads—we can only once again emphasize that whatever standard is regarded as acceptable throughout the country, that standard can only be achieved gradually and in accordance with some form of agreed central plan. Even then, an uneven rate of progress throughout the country will have to be accepted for some time, due to the problems of inadequate staff, insufficient finance and in the case of urbanized areas, the possible prior claims of certain services, for example, public health. Undoubtedly appreciable Government financial assistance will also be needed to enable some local authorities to improve the present standard of their services.

Specific Services—Within the Present Range of Local Government

It will be useful now to examine certain specific services which at present come within the scope of local government.

PRIMARY EDUCATION

The Commission have had various discussions with the Ministry of Education on two major points—the effects, both financial and administrative, of the proposed Teachers' Service Commission and any future arrangements for the primary education service—both, of course, in so far as they affect local government.

Teachers' Service Commission

It is understood that the teachers would be employed directly by the Central Government through this service commission and that the cost of the teachers' salaries and the cost of administering this Teachers' Service Commission would fall, in the first instance, upon Central Government. We have no specific details supplied to us as to what, if any, of this expenditure would subsequently fall on local government, or in what proportions individual authorities would be expected to contribute to that expenditure.

Provision of Primary Education as suggested by the Ministry of Education

The primary education service has since 1964 been administered by the county councils and the municipalities in conjunction with the Ministry of Education officers who are employed in various parts of the country. This form of administration is referred to in the Local Government Regulations and has also been covered by an Education Order of 1965, parts of which are shown at the end of this chapter. The expenditure on this service by local government has been provided in the annual estimates of each local authority which are approved by the Ministry of Local Government. The Ministry of Education now suggest that in future there should be established "by the Minister for Education—a Primary School Board in each local authority area, to consist of the following members appointed by the Minister, subject to some appropriate variation in municipal areas:

A Chairman.

Four members of the local authority for the area.

The District Commissioner (who may be the Chairman).

The District Community Development Officer.

A person nominated by the Kenya National Union of Teachers.

Not less than two other persons chosen for their knowledge or experience of primary education."

They also suggest:

"Executive responsibility for primary education in the area of jurisdiction of the board would vest in the board, subject to the power of the County or Municipal Education Officer to override the board in the event of the board acting, or proposing to act, illegally, or contrary to declared Government policy. Subject to this, the power of the board would be as follows:—

Preparation of estimates for submission to the Ministry of Education for approval.

Receipt of grants from public funds.

Administration of grants in accordance with approved estimates, Government policy and the Education Act.

Formulation of development plans in accordance with general directions issued by the Ministry, for approval by the Ministry.

Advice to the Minister on the sponsorship of schools.

Management of all maintained schools.

Exercise of functions in respect of the payment and deployment of teachers as agent of the Teachers' Service Commission.

Any other functions at the request of the Minister.

It is proposed that the County or Municipal Education Officer and his entire professional and non-professional staff should be public officers on the establishment of the Ministry of Education and that he would act as the secretary and executive officer of the board."

It will be seen that the proposed four members of the local authority on such a Primary School Board would be appointed by the Ministry of Education. So far as the expenditure of the board is concerned, it is apparently intended that this should be met initially from Central Government funds, and would be an addition to the charge made to Central Government funds to meet payments in respect of the Teachers' Service Commission in the first instance. It is then intended according to the Ministry of Education memorandum submitted to us, that—

"Any portion requiring to be made good out of local government revenues would be collected by the Government under precepting powers; consequently, there would be no direct financial contribution by local authorities to the revenues of boards. An arrangement of this kind is essential to enable the Government to manipulate the rate of growth in different areas, so as to accelerate progress in the more backward parts of the country. For this purpose, a linear formula, which related the revenues of a board to the contribution of the local authority in the area, would be inappropriate."

The Commission wish to point out that just as Central Government is chary of any open-ended grant system, so do local authorities look very carefully at any open-ended precepting system. Unless a precept can have fixed limits which are within the capacity of existing local authority revenues, any open-ended precepting system could create an acute financial problem to any local authority concerned. This is because under the present financial arrangements in Kenya, the income of local authorities apart from any Government grant, is broadly made up of either (a) school fees and graduated personal tax, or (b) school fees, graduated personal tax yield and income from rates. As graduated personal tax is a national tax fixed at a national standard scale and as the yield from graduated personal tax is governed therefore by the amount actually collected, it will be seen that the income available to the authorities is not very elastic. It follows that unless a local authority were able to alter the graduated personal tax scale at short notice or look to Central Government for increased Government grant, then there could be occasions when a local authority could not meet the whole of any precept from Central Government in respect of primary education. Indeed there could arise complications of priority as to which expenditure should be met first from limited funds. Furthermore, if the yield of graduated personal tax falls in any particular year or area, a local authority might find itself in a position of having to meet a fixed financial commitment, entered into by a Government department over which that local authority had no control.

If these suggestions as to the future administration of primary education are proceeded with, then in all fairness to the local authority, and in order to achieve financial clarity, the Commission would suggest that in place of a precept system, a fixed proportion of the yield of the graduated personal tax should be paid over to Central Government. This proportion, in turn, would be used to meet in whole or in part the actual cost of the primary education service to Central Government. What proportion of graduated personal tax would be fair is a matter which would have to be determined after the broad policy regarding the future administration of this service is decided.

Provision of Primary Education—Commission's View

On the other hand, given an assurance of reasonable finance, we have found a general desire on the part of the local authorities to retain primary education as one of their principal services. They undoubtedly look upon this as a service which is very local and something about which they feel they ought to have a voice. Apart from this, in the more developed local authorities, certain staff—e.g. treasurers' and works departments—are already employed part of whose services are applied to the day-to-day matters of a primary education service: for example, maintenance of buildings, preparation of committee minutes, making necessary payments, etc.

There has been criticism in the past of some local authorities in connexion with their primary education service. It is only right, however, to point out the difficulties which those authorities have had to face in regard to such an expanding service when faced with inadequate finance. Put quite simply, those authorities have often been faced with two unpleasant alternatives: to spend more than their income, which is contrary to the Local Government Regulations; or to reduce their commitments and so keep their expenditure within their income. As the second option could involve "cutting back" the primary education service, the choice to any local authority so placed was indeed a very difficult one.

We have examined in some detail the proposals of the Ministry of Education set out under the heading "Provision of Primary Education", but this Commission is very reluctant to see any more separate bodies not only because of the additional expense which small administrative units always involve, but also because of the grave shortage of trained administrative personnel. In the circumstances we are very much of the opinion that primary education might well remain within the scope of local government administration, although undoubtedly the financial side will need special consideration. At the same time, it is fair to say that whatever arrangements were made about provision of adequate primary education, the same financial problem would need to be resolved.

It is also, in our opinion, vital that those who pay graduated personal tax to the local authorities for certain services should have an opportunity, through their local authority, of knowing and seeing what they are getting for that tax payment. More than that, they should have an opportunity to make representations about the standards of the services for which they pay. To leave graduated personal tax where it is and remove primary education will probably not make the acceptance of the burden of graduated personal tax any easier to those who pay that tax.

Having said that, we must emphasize that in our opinion the present responsibilities so far as primary education is concerned, are not sufficiently defined as between Central Government and the local authorities; nor do we feel that the local authorities' responsibilities for maintaining a satisfactory standard in the primary schools are sufficiently provided for. We therefore feel that, if primary education is left to the local authorities to administer, then they should be under a statutory obligation, not only to have an education committee, but that certain statutory responsibilities should automatically be delegated to that committee. In addition there should be an obligation on that committee to maintain, subject to suitable finance, a standard of primary education within their area acceptable to the Ministry of Education. We would also expect that the statutory arrangements would provide for the co-option of representatives of certain interests which have a contribution to make to primary education—for example, representatives of the teaching profession, of any secondary schools or training colleges in the area, and possibly such bodies as mission schools.

The Ministry of Education ought also to have a voice in the acceptable level of expenditure which local authorities should incur to maintain a satisfactory standard of primary education, level of teaching staff, books, stationery and school equipment generally. This financial interest of the Ministry of Education would have to be exercised in co-operation with the Ministry of Local Government at the time that estimates were being prepared, and subject to any global financial control which the Treasury may also indicate each year, particularly as to additional expenditure on new schools, additional teachers and the like.

A decision on all this is a matter of some urgency because if the Teachers' Service Commission is to begin operations from January 1967, this will have a consequential effect on local authority estimates and indeed the total Government grant which is to be promised to local authorities for 1967. It is therefore essential that the local authorities, the Treasury and the Ministry of Local Government should be aware of any agreed scheme and the financial effects before the end of October 1966.

These comments of ours on the primary education service merely indicate what the Commission feel is well worth repeating. That policy decisions should be made in conjunction with decisions as to consequential financial effects. To decide only the first does not avoid decisions on the second, but it can cause unnecessary and on occasions difficult complications.

LOCAL HEALTH SERVICES

We have been rather concerned at the lack of clarity as to the division of responsibility for certain local health services as between the Government and the individual local authorities. There is the case in Nairobi particularly, where the Pumwani Maternity Hospital is not only being financed but extended by the local city council. On the other hand, we understand that in Mombasa the local maternity hospital has already been taken over by the Central Government. In addition, county councils maintain a certain number of maternity beds which are attached to their health centres. Here again, the local authorities are bearing the cost of maintaining a maternity service which, in some cases, may be as onerous relatively as a maternity hospital would have been at Mombasa.

We also understand that local authorities make financial contributions towards the running of non-Government hospitals. We raise no comment on actual contributions which seem very desirable where Government are not able to cope with the whole of the hospital requirements of Kenya. On the other hand, as Central Government are responsible for general hospital services, it would seem more proper for Central Government to make these contributions rather than individual local authorities.

We also understand that it is the intention to provide one health centre for every 20,000 inhabitants as a long-term policy, and as a first step it is intended to provide an additional 110 health centres by 1970. The Commission hope that the maintenance costs of these as well as capital costs will be discussed very fully with the Ministry of Local Government before local authorities are asked to make provision in their estimates.

MAINTENANCE OF ROADS

All secondary roads maintenance is the responsibility of local authorities, with financial assistance from Central Government. We understand that there are a very few local authorities which also act as agents for Central Government in maintaining trunk roads.

In addition to the complaints, mentioned in the chapter on Government Contributions to Local Authorities, that road grants are not adequate, we have had suggestions from several local authorities that some of their roads ought to be up-graded and become the financial responsibility, in whole or in part, of Central Government. This was particularly emphasized in regard to certain roads within the City of Nairobi. There could well be a review of road classifications every five years or so.

So far as road maintenance proper is concerned, there is the possibility of two road maintenance organizations existing in most of the county areas—one operated under the Ministry of Works for trunk road maintenance, and one operated by the local council for secondary and minor roads. We have raised with the Ministry of Works this possible duplication and are of the opinion that the problem ought to be kept under review so that whenever practicable the county council should maintain both trunk and secondary roads.

HOUSING

This is a service of growing importance and one which needs to be considered always in relation to the consequential effects on local government in general. For example, new estates involve decisions on town planning, roads, public health matters such as water supplies and sewerage, apart from educational facilities and the like. All of this is well within the existing scope of the local government administration and no-one ought to know more about housing needs in detail within a local government area than the local authority itself.

There are in practice two branches of the public services with powers to build houses in a local authority area—the county or municipality and the Ministry of Housing. In our opinion there is no justification for this duplication. If there is to be any housing programme, particularly on a national scale, then it needs to be integrated with the forward planning programmes of all the local authority services. Any realistic housing programme must increase the expenditure of local authorities in several ways, consequentially as well as directly.

Services Outside Present Range of Local Government

In our opinion, and for the reasons stated, the following services could, with advantage, be incorporated within the mandatory local government services. We have made this observation for three reasons—

- (a) economy in manpower;
- (b) co-ordination of finance and other requirements and the assessment of appropriate priorities;
- (c) long-term planning.

SOCIAL SERVICES AND COMMUNITY DEVELOPMENT

This is a service which to be successful must have, as indeed it has at present, a local emphasis. The Commission noted that much of what the Ministry of Co-operatives and Social Services do has a direct relationship with local government. At present, the policy of this Ministry is in fact operated throughout the country by employees who are in the main paid and employed by the local authorities. In addition, this service at present involves a variety of local project committees and the like which again in practice have to be related at second-hand to the needs and requirements of the various local authorities. This is always an undesirable arrangement and inevitably leads to a variety of difficulties unless considerable administrative time is taken to avoid these difficulties. The Commission feel that there is a good deal of overlapping in the current arrangements and are of the opinion that there is a need to incorporate much of this service within the local government sector.

NATIONAL DEVELOPMENT PLAN

Our views on the association of this with local government will be found under the part of this report relating to the National Development Plan. Sufficient to say here that the Commission feel that the present committee arrangements which are outside the sphere of local government ought to be disbanded so far as possible. In their place, the Commission are of the opinion that there ought to be one committee for each county which would be under the statutory obligation to include representatives of any municipal council and various other interests; for example, industry, secondary education, provincial administration and particularly local Members of Parliament.

PUBLIC UTILITY SERVICES

There are two public utility local government services which we think ought to be reviewed in so far as the responsibility is concerned.

Water.—The Mombasa Municipal Council raised the question of the municipality taking over the Mombasa Pipeline Board together with its obligation regarding water supplies outside the municipal boundaries. This board supplies water in the main to Mombasa Municipality although there are some subsidiary consumers. Whilst we recognize that the control of water sources ought to be within some form of central or regional organization, we are satisfied that the distribution of water should rest with the appropriate local authorities, with a statutory obligation in some areas to extend the distribution system over the local authority boundaries. We say this because both the development of housing, of sewerage schemes and the public health requirements of any local government area cannot be considered without having regard to appropriate present and future water supplies. We understand that Central Government already take the view that some form of appropriate body ought to be set up to deal with the sources of water and we see no reason why this attitude should not fit in with the observations we have already made under this heading for distribution of water. We would expect, however, that there should be some cross-representation between these two bodies.

Road Passenger Transport.—We are satisfied that there is a very clear case for urban transport coming within the administration of the major local authorities and this would appear to be in accordance with Government policy. Furthermore there is provision in the Local Government Regulations for this. Where services exist the take-over should be phased according to the council's ability to run them in addition to their present commitments: where there is no service then the local authority should reserve the right to start services. We recognize that the "country" services might have to be regarded differently.

A.—MANDATORY FUNCTIONS

<i>Statutory Provision</i>	<i>Function</i>	<i>Class of Authority</i>
Local Government Regulations 1963 and Education (Entrustment of Functions to Local Authorities) Order 1965.	PRIMARY EDUCATION—functions as quoted in Appendix II to this chapter.	Municipal and County Councils.
Local Government Regulations 1963 and Public Health Act (Cap. 242).	PUBLIC HEALTH—certain specified functions pertaining to preventive health measures. It should be noted that the curative side of medicine is a permissive function.	Municipal and County Councils.
Local Government Regulations 1963.	ROADS—Control and care of municipal streets. Control and care of secondary roads. Control and care of unclassified roads.	Municipal Councils County Councils. Urban and Area Councils.
Local Government Regulations 1963.	BURIAL OF DESTITUTES ..	Municipal, Urban and Area Councils.

B.—PRINCIPAL PERMISSIVE FUNCTIONS

(a) All local authorities

1. Administrative functions (e.g. offices, staff, contracts, members' allowances, fees and charges, by-laws).
2. Sewerage and drainage.
3. Markets.
4. Social and welfare services.

(b) Municipal, urban and area councils

1. Housing.
2. Sewerage and drainage.
3. Water supply.
4. Ambulance services and fire brigades.
5. Street lighting.
6. Cemeteries and crematoria.

THE EDUCATION (ENTRUSTMENT OF FUNCTIONS TO LOCAL
AUTHORITIES) ORDER 1965

All municipal and county councils are entrusted with the following functions—

- “3. (2) (a) the preparation and submission to the Minister of plans for the promotion and development of primary education and the implementation of plans approved by the Minister in accordance with this Order and in consultation with the Minister responsible for Local Government;
- (b) the supervision of public schools;
- (c) the maintenance, assistance and administrative control of public schools;
- (d) the management of any public school;
- (e) the administration and application of grants from the public funds of the Government of Kenya in accordance with rules made under the Act and with estimates approved by the Minister responsible for Local Government after consultation with the Minister;
- (f) the administration of bursaries for secondary education in accordance with rules made under the Act and with estimates approved by the Minister responsible for Local Government after consultation with the Minister;
- (g) such functions for the purpose of the inspection of schools as may from time to time be required or prescribed by the Minister;
- (h) the submission to the Minister of such returns, reports and information as he may from time to time require; and
- (i) any other matters that may be prescribed in Rules and Regulations made under the Act.”

Additionally, in the areas of ten specified local authorities, all the administrative and supervisory services with respect to primary education are to be carried out to such extent and in such manner as the Minister may determine by officers of the respective local authorities.

CHAPTER SIX—THE EXTENT AND NATURE OF CENTRAL GOVERNMENT CONTROL OVER LOCAL AUTHORITIES

We have reviewed the present controls which are exercised by the Ministry of Local Government over local authorities. There are over 100 detailed Government controls affecting local government, ranging from the power of the Minister to approve appointment of aldermen by county councils to the appointment of a commission to run the affairs of any local authority. These controls are contained mostly in the Local Government Regulations of 1963, and a summary of the main controls is included at the end of this chapter.

At this stage of local government in Kenya the Commission do not think it advisable to make any alterations in the present controls exercised by the Ministry of Local Government. It is desirable, however, for the Ministry to find ways in which the exercise of those controls can be simplified and the implementation speeded up. This can possibly be best achieved as part of the suggested decentralization scheme whereby senior local government officers can be posted to various parts of the country. These senior officers must be of adequate standing to give decisions on a variety of matters on behalf of the Minister for Local Government. Their duties should cover, for example, authorization of car loans, authority for diversion of estimates, supervision of accounting arrangements and the like.

INTERESTS OF ASSOCIATED MINISTRIES

There are also the interests of other Ministries to consider in connexion with local government services—for example, those local health services which are committed to the local authorities but for which the Ministry of Health have a good deal of responsibility, certainly on policy. Provision needs to be made for some action to be taken if, on inquiry, it is clear, that after reasonable warning and bearing in mind facilities and finance, local services satisfactory to such Ministries are not being provided.

Technical inquiries and “on the spot” technical investigations are very properly within the ambit of the appropriate Ministries and should be made if necessary direct to the local authorities. We again stress, however, as elsewhere, that there should be adequate co-operation with the Ministry of Local Government when finance, functions or forward planning are involved.

DISCLOSURE OF INTEREST

There has been some comment before the Commission as to the way in which tenders are dealt with. In an attempt to improve present procedure, the Commission suggest that some amendment should be made to local government regulation 89. This regulation provides for disclosure of interests in certain circumstances when any contract or proposed contract or other matter is under discussion. It is desirable that the minutes should record not only that a member affected by regulation 89 took no part in the particular proceedings, but that in fact the member left the meeting during that stage. If he did not, any decision should be regarded as invalid.

The Commission also feel that there should be an annual or certainly periodic return from every member of a council to the clerk, indicating where any member is affected by the references set out in regulation 89. In the interests of the members making that return, it should be laid down that the return is to be kept privately in the possession of the clerk, whose duty it will be to see that no member takes part in any proceedings, if he is affected in accordance with that register. There is no need in our opinion for such a register to contain a detailed record of the extent of that interest, e.g. number of shares held. That would seem to be too much of an intrusion into a member's private affairs.

OPENING OF TENDERS

Whilst the current regulations are reasonably satisfactory, we feel that there should be available a list of all tenders received with a certificate on that list indicating that all those tenders were opened at one and the same time, and the date when opening took place. The certificate should be signed by the clerk or the officer nominated by him, and at least two members who should be present at the opening of the tenders. That list ought also to indicate the reason why any tenders were rejected.

GROUP TENDERS

There is possibly room in the day-to-day administration of local government for adjoining local authorities to arrange tenders on a group basis. This could be of particular interest on certain supplies for public health and primary education, and the Regulations should contain powers not only for grouping, but also for the Minister to so direct, and to decide any cases where centralized tenders for supplies might be advantageous.

AUDITS AND AUDIT REPORTS

It is a requirements of the Local Government Regulations that all local authorities are to be audited by persons (called "inspectors") appointed by the Minister for Local Government. The Regulations set out the procedure for an annual "inspection and examination" of the accounts and records of a local authority. To date, only public officers have been appointed as inspectors, although, in addition, approval has been given to the appointment of practising accountants as additional auditors in certain municipalities. It is not yet known to what extent practising accountants would be able to assist by undertaking full audits, but in present circumstances this should be pursued. It is recommended that the Regulations be amended to empower the Minister to appoint an auditor to audit the annual accounts—which amendment could be drafted to include continuous audit—and to introduce a new provision whereby the Minister might appoint a person to inspect and examine the accounts, etc., from time to time. This suggestion would provide a flexible system, whereby the Minister retains control but is empowered to split or combine audit and inspection in any instance as circumstances require, and whereby practising accountants could be employed, with or without the power of occasional inspection. Properly carried out, the powers regarding audit and inspection can be a most effective means of ensuring proper accounting, administration and control within a local authority. An inspector has powers under the Regulations to disallow and surcharge items in the accounts of local authorities and to surcharge losses and deficiencies upon officers and members.

The following Table summarizes the position with regard to the audits.

TABLE II—STATE OF AUDIT FOR LOCAL AUTHORITIES AS AT JULY 1966

	<i>Accounting Years 1959-1964</i>	<i>Accounting Year 1965</i>	<i>Total 1959-1965</i>
	<i>No. Audits</i>	<i>No. Audits</i>	<i>No. Audits</i>
Audits not yet started	65	40	105
Audits in progress	54	—	54
Audits completed	251	—	251
TOTAL ..	370	40	410

- NOTES: (1) The figures cover all local authorities in these years and in addition the former District Education Boards, twenty of which ceased to exist at the end of 1963 and the remaining four at the end of 1964.
- (2) The Ministry of Local Government also audit a number of small boards which make loans to farmers and traders. These boards are not included in the above figures.

(Source: Ministry of Local Government)

Explained in another way, in July 1966, none of the local authority audits for 1965 had been commenced, and only seven out of forty-four audits for 1964 had been completed. Two-thirds of the audits for 1963 had either been completed or were still in progress; fifteen audits had not been started in respect of the years 1961 and 1962, and there were still seven audits in progress in respect of the years 1959 and 1960.

At present, in view of these large arrears of audit work, the effectiveness of this control is greatly reduced. It will probably be several more years before the present audit staff of the Ministry are able to complete the audit of all accounts up to the end of 1964, and by this time the audits for 1965 and subsequent years will then be in arrears. The shortage of audit staff in the Ministry is one reason for these arrears of work, but we are also informed that two-thirds of the present county councils are unable to prepare their own final accounts. In most cases it therefore falls upon the audit staff to complete and balance the accounts of these councils before work can start on the audit. To this extent, the work of auditing is further hampered.

In the Commission's view it is essential to the whole system of Government control over local authorities that the audit of these local authorities' accounts be carried out promptly. The following are a few ways of improving the present position:—

- (1) An increase in the numbers of audit staff. This is not easy but unless some proper plan is worked out nothing will be achieved. There is a constant increasing demand for qualified accountants in most, if not all, African countries and it will be some considerable time before anything like an adequate local supply is available.
- (2) Decentralization of the audit staff—instead of them all being based on Nairobi.
- (3) An increased use of firms of professional accountants to take over the annual audit of certain councils and possibly in certain cases to provide a continuous audit. The terms of the appointment must, however, be clearly agreed with the Ministry as well as with local authorities. Furthermore, this work would have to be supplemented by a brief visit of the Ministry's officer who would concentrate on matters such as testing the legality of expenditure, efficiency of administration and compliance with the Local Government Regulations.
- (4) Recruitment of any retired accountants in Kenya for individual audits.
- (5) Any moves to improve the pace at which these accounts are audited might be accompanied by the "writing-off" of arrears of audit work for certain years. The Commission think that any decisions on this should be made by persons of wide experience, and it may well be better to "work backwards" as far as possible.
- (6) Consideration should be given to the priority need for using audit staff to balance accounts and prepare final accounts for those authorities in arrears. Whilst this would delay audit it would ensure something which

is urgently needed at present—the up-to-date financial survey of local government throughout the country. Again, although it would undoubtedly delay a proper audit these final accounts would probably draw attention to any serious financial mismanagement.

SPECIAL AUDITS AND CONTINUOUS AUDITS

The Commission also recommend that in altering the Regulations some power ought to be taken for the Minister to authorize special audits without notice, and in certain cases authorize the continuous audits mentioned earlier.

It also seems desirable that provision should be made for the annual audit reports to be included in the published minutes of each council. The financial administration of a local authority is of real interest not only to a finance committee but also the council, and indeed to all those who pay their contribution towards the provision of local government services. If this suggestion were acceptable, then the present form of report made by the inspectors of accounts under the Local Government Regulations ought to be very much streamlined.

APPOINTMENT OF A COMMISSION FOR CARRYING ON THE AFFAIRS OF A LOCAL AUTHORITY

There is provision in the Local Government Regulations for the Minister to appoint a commission of not less than three persons to carry on the affairs of a local authority in certain circumstances. Whilst this is an exceptional power it may be needed on occasion and therefore the Commission are of the opinion that the period over which that Commission may act should be made more flexible. The present initial period is nine months and after that an extension or amending order has to be obtained. It would seem desirable to make the initial period something like two years.

ANNUAL LOCAL AUTHORITY REPORTS

It is an obligation on municipal and county councils to make an annual report to the Minister, and the Minister has power to direct the form of such reports. The Commission think that the form in which these reports are prepared should be agreed, as this could provide a useful form of “long distance” control on the efficiency of a local authority’s administration.

LIABILITY TO SURCHARGE

Our attention has been drawn to local government regulation No. 236 (4):—

“. . . liability to surcharge shall not be incurred by an officer or other employee of a local authority, including a public officer seconded to a local authority, who can prove to the satisfaction of inspector that—

- (a) he acted in pursuance of, and in accordance with, the terms of a resolution of the local authority or of a committee thereof duly appointed by the local authority, after having first pointed out the irregularity and having exercised his right to require his advice to be recorded in the minutes of the meeting at which such resolution was passed. . . .”

We think this particular provision needs review because it is not in the best interests of local government that any improper payment should be made or improper action taken in any circumstances. In that respect the right of a principal officer needs strengthening, even beyond the recording of his objection. Local Government Regulations should provide that in such a case the matter must be reported by the officer to the Minister. Only if the Minister then gave

approval, should the officer implement the terms of the resolution. In any case, this regulation could sometimes conflict with regulation 92 (4) which provides that "no payment shall be made . . . unless it has been provided for in the approved annual or revised and supplementary estimates of expenditure, . . ."

FINANCIAL REGULATIONS

The Local Government Regulations provide that every finance or finance and general purposes committee shall make provision by standing orders regarding those matters coming within the scope of such committee. Very little attention has apparently been given to this. This matter, however, is of vital importance to efficient financial administration in any local authority and it is important that this should be attended to without delay. Indeed all standing orders ought to be kept under regular review. An appropriate set of standing orders for finance committees could be agreed in conjunction with officers of representative local authorities. It needs emphasizing, however, that however well designed any financial regulations may be, their effect depends upon the way they are implemented. This is, therefore, related to the observations the Commission make in Chapter Nine.

Generally, one of the important features in providing fair and proper local government administration is to ensure that any member or officer of a local authority is fully aware of the penalties which can follow any improper action, not only the financial penalties, but also penalties about participation in local government life. As a step towards this it is important to ensure that those involved are kept aware of the more important parts of the Local Government Regulations. Coupled with this is the need to assure local government officers that in taking a firm stand against improper instructions, or indeed, intimidation, those officers have the Ministry of Local Government behind them.

APPROVAL OF ESTIMATES

The Local Government Regulations provide that the estimates of every local authority, other than "local councils", must be approved by the Ministry of Local Government and there has been a good deal of criticism from the local authorities as to the delay which occurs at the Ministry before their estimates are, in fact, approved. This delay has various effects, not least of which is that the local authority is not assured of the expenditure which it can incur. More than that, some of the improvement schemes which may be included in a local authority's estimates may be approved so late in the year that there is little opportunity for putting those improvements in hand before the end of the financial year. Apart from that, there is a general sense of frustration and waste of administrative time through these delayed proceedings.

On the Ministry's side, it is only fair to say that some of this delay arises through shortage of qualified staff to deal promptly with these matters and on occasions there have been other matters of national policy which have contributed to delay. On the practical side, however, we are satisfied that a good deal of the delay arises from the fact that several local authorities are too optimistic in making their estimates of income and consequently they then prepare an inflated total of proposed expenditure for the following year.

It seems to us that time could be saved, and indeed correspondence, if a local authority supplied the Ministry in October of each year with an estimate of its probable income for the succeeding financial year. The Ministry could then examine this and agree if such income figures were reasonable for each authority. After that the local authorities would then proceed to make estimates of expenditure in line with the approved estimated income. It is desirable in the interests of sound administration that the Minister for Local Government should be under an obligation to approve these estimates by a fixed date.

NEED FOR GENERAL EDUCATION ABOUT LOCAL GOVERNMENT REGULATIONS

The Commission are informed that there are probably some officers who are not well versed in the Local Government Regulations. We hope that that can be remedied at an early date, and a summary of the more important matters which affect the day-to-day work of local government can be prepared and circulated not only to officers but to members.

SUMMARY OF THE MAIN GOVERNMENT CONTROLS OVER LOCAL
AUTHORITIES AS CONTAINED IN THE LOCAL GOVERNMENT
REGULATIONS 1963

I—CONSTITUTION OF LOCAL AUTHORITIES

Minister for Local Government has power to—

- nominate councillors to all local authorities;
- nominate chairmen of second class county councils, urban and area councils;
- approve the appointment of aldermen by county councils;
- determine maximum allowances for mayors and chairmen of councils;
- make rules regarding elections to local authorities, qualification of voters and councillors and disqualification of councillors.

II—MEETINGS AND PROCEEDINGS

Minister for Local Government has power to—

- approve standing orders made by local authorities and to make standing orders which must be followed by all local authorities;
- specify minimum number of meetings to be held by the various classes of local authorities each year;
- remove disability from voting where members have declared interests in contracts.

III—OFFICERS

The Ministry of Local Government has power to advise on the appointment of certain municipal and county councils' chief officers (clerks, treasurers and engineers) and their deputies and to approve their salaries and emoluments.

Councils are unable to dismiss the above chief officers without the approval of the Minister.

Minister has power to appoint chief officers in default of councils, after he has directed councils to appoint.

The Minister for Health has powers similar to above in relation to the appointment of Medical Officers of Health and Chief Health Inspectors.

IV—POWERS AND DUTIES OF LOCAL AUTHORITIES

Minister has power to approve—

- the exercise of certain powers by local authorities;
- delegation of functions by county councils;
- functions of local councils;
- scales of fees and charges levied by local authorities;
- purposes for which local authorities propose to make grants of money;
- rates of allowances for members of local authorities;
- purposes for which local authorities may guarantee loans;
- acceptance of tenders other than the lowest by local authorities.

V—BY-LAWS

Minister has power to make adoptive by-laws and in addition he must approve all by-laws made by local authorities.

VI—FINANCIAL PROVISIONS

Minister to approve annual, revised and supplementary estimates of all municipal, county, urban and area councils.

Minister may issue directions to local authorities on the creation of renewal and capital funds and the level of general reserve funds, and in addition Minister to approve investments for such funds.

VII—LOANS

Minister to approve all loans made to local authorities.

Minister for Finance to control stock and bond issues by local authorities.

VIII—ACCOUNTS AND AUDIT

Minister has power to—

- make rules for keeping accounts by local authorities;
- appoint inspectors of accounts who must report to Minister;
- issue directions to local authorities based on inspector's report;
- decide appeals from surcharges made by inspector;
- approve certain items of expenditure which would otherwise be surcharged by the inspector.

IX—REPORTS, RETURNS AND INQUIRIES

Minister has power to—

- require local authorities to submit copies of minutes and other records;
- appoint public officers to inquire into all aspects of local authorities' administration, services, etc., and issue directions;
- direct local authorities to carry out their functions, or to carry out such functions in default and recover the costs;
- reduce government grants payable to municipal and county councils;
- require the winding up of any local authority and the appointment of a commission in its place.

CHAPTER SEVEN—THE GENERAL FINANCIAL SITUATION OF LOCAL AUTHORITIES INCLUDING THEIR TAXATION POTENTIAL AND HOW REVENUES TO MEET THE COST OF SERVICES PROVIDED BY THEM SHOULD BE RAISED AND FROM WHAT SOURCES

The Present General Financial Situation of Local Authorities

All local authorities in Kenya were estimated to spend in total just over £19 million in 1965. Of this sum just over £18 million was spent by the 40 municipal and county councils, and the balance by the 152 urban, area and local councils.

Tables III and V summarize the 1965 revised estimates and the 1966 estimates of all the county and municipal councils. Whilst all the 1966 estimates have not yet been approved by the Ministry of Local Government, the actual approved figures, or the likely figures which will be approved in due course, have been used for these Tables. In most cases any differences between the estimates submitted by the local authorities and those approved by the Ministry arise on the income figures which have been submitted at too high a level by the authorities.

COUNTY COUNCILS

Table III summarizes the revised 1965 estimates and the 1966 estimates of all county councils. The Commission offer the following comments:—

- (1) The position revealed by this table is a matter for serious and urgent consideration. Estimated expenditure in 1966 has increased by £794,000 over 1965, whilst income has increased by only £146,000. The increase in expenditure is nearly 8 per cent over 1965, whilst only two items of income have increased substantially—graduated personal tax and road grants. Income from school fees is almost static, whilst the Government general grant has decreased.
- (2) It should be noted that in 1965 similar financial difficulties were avoided only because of an increase in Government grants of £1.17 million.
- (3) The estimated net deficit for all county councils in 1965 of £98,000 consists of deficits on 13 councils totalling £350,000, offset by surpluses for 20 councils totalling £252,000. This position may well worsen in 1966; 23 councils show an estimated deficiency of £785,000 and only 9 councils have an estimated surplus for the year, totalling £39,000. A further indication of the seriousness of county councils' financial difficulties is the increasing number of councils with accumulated deficiencies on their general funds. By the end of 1965, 10 county councils had accumulated deficiencies of £529,000 on their general funds, whilst by the end of 1966 it is estimated that 15 county councils will have accumulated deficiencies of some £1,180,000.

TABLE III—COUNTY COUNCILS—REVISED ESTIMATES 1965 AND ESTIMATES 1966
(all figures in thousands)

BROAD ANALYSIS OF EXPENDITURE	Revised Estimate, 1965	Estimate 1966	Increase	Decrease	BROAD ANALYSIS OF INCOME	Revised Estimate, 1965	Estimate 1966	Increase	Decrease
	£	£	£	£		£	£	£	£
Administration	790	965	175	—	Graduated Personal Tax	2,510	2,684	174	—
Primary Education	6,442	6,756	314	—	Rates	30	30	—	—
Health	986	1,144	158	—	Cesses	293	279	—	14
Roads	1,032	1,171	139	—	School Fees	2,778	2,788	10	—
Other Services	865	873	8	—	Other Income	1,058	1,016	—	42
					Government Grants:—				
					General	2,509	2,406	—	103
					Roads	839	960	121	—
TOTALS	10,115	10,909	794	—	TOTALS	10,017	10,163	305	159

NOTE.—The method of analysing administrative expenses differed slightly between these two years, and a number of items which were included under "Other Services" in 1965 were included under "Administration" in 1966.

All County Councils: Estimated net deficit 1965 .. £98,000
Estimated net deficit 1966 .. £746,000

(Source: Ministry of Local Government)

This broad picture of the finances of all county councils gives rise to the gravest concern. The Commission also must draw attention to the particularly serious position of the following seven county councils unless additional Government grants are forthcoming:—

TABLE IV

1962 Population	Council	Estimated Annual Expenditure in 1966	Revised Estimated Deficit in 1965	Estimated Deficit in 1966	Estimated Accumulated Deficiency on General Fund at end 1966
		£	£	£	£
571,600	Masaku ..	705,000	13,000 (surplus)	39,000	37,000
134,700	Embu ..	224,000	15,000	67,000	101,000
279,000	Nyeri ..	538,000	41,000	44,000	114,000
595,000	Kisumu ..	532,000	45,000	75,000	150,000
481,600	South Nyanza	422,000	18,000	44,000	114,000
600,200	Kakamega ..	651,000	69,000	74,000	221,000
241,900	Bungoma ..	294,000	18,000	104,000	210,000
			193,000	447,000	947,000

(Source: Ministry of Local Government)

These seven county councils provide local government services for about one-third of the total population of Kenya, and the Commission understand that the Government has been requested to provide additional grants for these councils to enable them to continue providing services. Even if such a request is granted, it must be pointed out that it will not solve the basic problem. Put very simply, the demand for local government services which many local authorities are being asked to meet is beyond the existing income. In the short term, unless yields from graduated personal tax can be increased appreciably, by better collection, which is not impossible in some parts of Kenya, or by an increase in the tax scales, the only answer is increased Government grants or reduced services. Even if it were possible for Government to find additional funds to maintain the solvency of the above councils, such a move must direct funds from elsewhere in the present national outgoings.

It might be wondered why certain county councils are able to incur large deficiencies and still continue to function. Some councils hold special funds, for example, urban, area and local councils' funds, and renewals, reserve, capital and provident funds. So long as councils have adequate balances in aggregate on those special funds then there is little cause for concern from a cash point of view. However, it will be noted that the trend is for county councils to show rapidly increasing deficits and in consequence fund balances are being exhausted. Whether it is right in principle to use those special fund balances to finance the general fund services of councils is a matter which must be considered by the Ministry. It appears to the Commission that this practice is wrong.

MUNICIPAL COUNCILS

Table V shows a similar summary of estimates in respect of municipal councils, and our comments are as follows:—

- (1) The financial position of municipalities is by no means as serious as that of counties, but a similar trend will be observed in annual expenditure

TABLE V—MUNICIPAL COUNCILS—REVISER ESTIMATES 1965 AND ESTIMATES 1966

(all figures in thousands)

BROAD ANALYSIS OF EXPENDITURE	Revised Estimate, 1965	Estimate, 1966	Increase	Decrease	BROAD ANALYSIS OF INCOME	Revised Estimate, 1965	Estimate, 1966	Increase	Decrease
	£	£	£	£		£	£	£	£
Administration	697	722	25	—	Graduated Personal Tax	2,096	2,144	48	—
Primary Education	1,525	1,661	136	—	Rates	2,189	2,176	—	13
Health	1,257	1,302	45	—	School Fees	344	393	49	—
Roads	904	945	41	—	Housing	962	1,007	45	—
Housing	1,075	1,094	19	—	Water	917	932	15	—
Water	919	936	17	—	Other trading Services ..	336	372	36	—
Other Trading Services ..	426	488	62	—	Other Income	1,219	1,276	57	—
All Other Expenditure ..	1,453	1,679	226	—	Government Grants:—				
					General (1965) (Indirect Teachers' Salaries, 1966) ..	438	201	—	237
					Roads	79	92	13	—
TOTALS	8,256	8,827	571	—	TOTALS	8,580	8,593	263	250

All Municipal Councils: Estimated net surplus 1965 £324,000
 Estimated net deficit 1966 £234,000

(Source: Ministry of Local Government)

and income—1966 estimated expenditure shows an increase of about 7 per cent over 1965, whilst income is almost static.

- (2) However, all municipalities still had considerable balances at the end of 1965, totalling over £1½ million on their rate funds alone; i.e. excluding some trading services' balances.
- (3) The finances of these councils differ in several significant respects from the counties—
 - (a) the ability of municipalities to levy rates on sites—this additional source of income produces slightly more revenue for municipalities than graduated personal tax. It will be noted that municipalities finance half of their total expenditure from these two sources. There is practically no rate income in counties where graduated personal tax provides only one-fourth of the expenditure.
 - (b) Government grants account for only about 3½ per cent of municipalities' income (1966) compared with about 33 per cent in counties;
 - (c) primary education, which accounts for 62 per cent of the gross expenditure of counties, is less significant in municipalities where it is only 19 per cent of gross expenditure;
 - (d) income-producing services—e.g. housing, water, conservancy—are much more important in municipalities than in counties. Generally, the income from these services is equal to expenditure, but it will be seen that housing expenditure was estimated to exceed income from rents by £113,000 in 1965 and by £87,000 in 1966.

The Tax Potential of Local Authorities and How Revenues to Meet the Cost of Services Should be Raised and from What Sources

This part of the Commission's terms of reference covers three separate subjects—

- (1) the tax potential of local authorities;
- (2) how revenues to meet the cost of services should be raised; and
- (3) from what sources should these revenues be raised.

In the view of the Commission all these three must be dealt with together.

The Commission have received evidence from the Treasury on the level of taxation in Kenya and the Commission's attention has been drawn to the 1966 Economic Survey, which states—

“... the Kenya Government is now taking in taxation about 19.6 per cent of the monetary sector of the gross domestic product and if we add to this local authority taxation and in particular graduated personal tax, it will be seen that the percentage of the National Income taken in taxation is high and on the basis of advice from a number of outside experts cannot easily be increased without damaging effects on the economy.”

If this advice is accepted, it would appear that there is only very limited scope for introducing new taxes and increasing the levels of present local government taxes.

The Fiscal Commission (1963) examined in detail the scope for increasing both Government and local government revenues to meet increased expenditure. At that time the Fiscal Commission felt unable to propose new taxes, other than graduated personal tax, since anything more would merely compete with existing demands.

Various suggestions have been made to the Commission on additional sources of revenue for local authorities—motor licence fees to be paid to councils, councils to levy local sales taxes, etc.—but all such proposals would either infringe upon existing Government taxes or merely transfer revenues at present paid to Government to local authorities. For these reasons, this Commission has concluded that additional revenues to finance local government services will have to be obtained from the improvement and development of sources of revenue at present available to local authorities, including grants from Government.

The Commission now review the principal forms of local government revenue.

GRADUATED PERSONAL TAX

Graduated personal tax was introduced from January 1964 as the “financial mainstay of rural local government” on the basis of recommendations made in the Fiscal Commission’s Report (1963). In 1965, approximately 919,000 people paid a total of £4.7 million in graduated personal tax, which accounted for one-quarter of the gross income of county and municipal councils in that year. The lowest tax is Sh. 48 per annum, and the highest is Sh. 600. Looked at in isolation, the highest contribution for local government services is meagre.

This form of tax has several advantages—it is widely spread; if taken in conjunction with income tax it is reasonably progressive; and, as mentioned, it provides a substantial contribution towards the cost of running local government services. In addition, for employed persons the method of payment is simple and convenient and avoidance is difficult.

There are, however, a number of disadvantages. The tax is levied at uniform rates throughout Kenya and thus it takes no account of the widely differing needs and standards of services between the various municipal and county council areas. It is a matter for consideration as to whether in principle it is right for the proceeds of any national tax to be applied wholly within the area of collection. In county areas, district commissioners are responsible for collecting tax from people not in paid employment and although only about 25 per cent of the total tax is collected in this way, it is not satisfactory that revenues wholly applied towards meeting local government expenditure should be collected otherwise than by local government, which has, or ought to have, a direct interest in maintaining maximum assessments and income from graduated personal tax.

It seems likely however that graduated personal tax must provide a major source of income for local authorities at least for a number of years to come, and it is necessary to determine what additional income local authorities could expect to receive from that source. There appear to be three ways in which the present yield of graduated personal tax could be improved:—

- (a) By adjustment of the present tax rates. In the light of the advice quoted from the Economic Survey (1966) it seems that there is at present only limited scope for increasing the tax rates in order to increase the yield. However, it should be pointed out that graduated personal tax is levied at uniform rates throughout Kenya and consideration might therefore be given to empowering municipal and county councils to levy their own rates of tax, subject to overall Government control. The Commission appreciate the advantages of the existing uniform system in facilitating the deduction of tax by all employers, irrespective of the areas in which their employees live, but it is for consideration whether the tax could be made more adaptable to local needs without loss of efficiency in collection. It has also been suggested to the Commission that there is

scope in some areas for a reduction in the present lowest rate of tax to enable persons with low incomes to make some contribution to local services. We have no evidence in support of this suggestion, but we feel that it is worth investigating. Graduated personal tax is, after all only part of the total taxes levied in Kenya and any changes in that tax must be considered by the Treasury in relation to the total tax burden.

- (b) Improved enforcement procedures. This appears to offer the best prospect for increasing collections of graduated personal tax. In 1965 some 919,000 persons paid tax out of an estimated adult male population of 2,152,000. The Ministry of Economic Planning and Development have calculated that there are approximately one million small-scale farmers, and in 1965 the total number of persons—including small-scale farmers—not in paid employment who paid tax at the lowest rate was about 310,000, although some might have paid at a higher rate. This gap between the number of persons paying tax and potential tax payers merits urgent investigation and the Commission feel it might well provide some of the extra income which is needed by local government. This conclusion is strengthened by the fact that the old Government personal tax was paid by nearly 1,100,000 people in 1959, and the Fiscal Commission felt it reasonable to assume that there are at least a million potential tax payers. In addition, enforcement for payment is by civil process which is lengthy and expensive and it has been suggested that simple and effective means of enforcing payment must be provided which would substantially increase collections in rural areas.
- (c) In rural areas the assessment of tax liability for those not in paid employment is carried out by the committees appointed by the Provincial Administration. We understand that these committees are often cumbersome and inexpert, and there are no standard assessment procedures. It is felt that the methods of carrying out assessments, the assessment scales used and the levels of assessments made could all usefully be reviewed. An analysis of tax payments for 1965 suggests that in some areas there might be considerable scope for increasing assessments of people in the higher ranges of incomes.

In 1965 a Bill was introduced into Parliament to improve the present graduated personal tax system. However, this Bill was withdrawn for reconsideration early in 1966. The Commission hope that as part of this reconsideration it will then include some flexibility to allow local authorities at some future date to be fully responsible for their own assessment and collection of tax, as an alternative to the present system.

It is apparent from the foregoing that it ought to be possible to obtain additional revenue from this tax, although even if it is possible to collect at the lowest rate from an additional 200,000 people, providing £480,000 extra income, this would still leave the county councils facing a deficit for 1966 in the region of a quarter of a million pounds.

There is one further aspect of graduated personal tax which calls for comment. There are arrangements for transmission of tax paid by employed persons, who either live or have a family in another area. Most tax transmitted in this way is paid in the first instance to municipal councils, who in turn transmit the money to appropriate county councils. In 1965 the amount transmitted was nearly £600,000 or about one-quarter of the total tax collected by the municipalities. Dissatisfaction with these arrangements has been expressed to the Commission by a number of county councils who feel that not all money that should be transmitted to them is sent. There seem to be some grounds for this

doubt, since it is recognized that the information on the basis of which tax is transmitted may be incomplete or inaccurate. This matter might well be covered by the general review of graduated personal tax which we suggest in Chapter Eight.

RATING

Municipal and county councils are empowered to levy rates on land or property. On the other hand, the present urban, area and local council may request the municipality or county to levy rates on their behalf.

Rating is an important source of income to the seven municipalities and to nine urban councils. In the rest of Kenya rating is at present hardly developed and therefore an unimportant source of local government income, as the Table below illustrates.

TABLE VI—RATING BY LOCAL AUTHORITIES—1965

TYPE OF COUNCIL AND NUMBER LEVYING RATES	Basis of Rating	Estimated Rate Income 1965	Estimated Total Expenditure All Councils 1965
Municipalities (7 out of 7)	Mainly on capital value of sites but a small part on area.	£ 2,189,000	£ 8,256,000
County Councils (4 out of 33).	Agricultural rental value, area and capital value of sites.	30,000	10,115,000
Urban Councils (9 out of 17).	Mostly capital value of sites	80,000	280,000
Area Councils (12 out of 60).	As per County Councils ..	45,000	490,000

(Source: Ministry of Local Government)

It will be seen from the above table that three different methods of rating are now in use, although most rates in municipal and urban councils are levied on the basis of capital value of sites. In addition to these methods, local authorities may also, but do not at present, levy rates based on capital value of improvements, or annual value of improvements. A brief description of these various methods is included at the end of this Chapter.

Several urban councils wish to introduce rating based on capital value of sites, but we are informed by the Commissioner of Lands that the work of preparing valuation rolls for these councils is unlikely to be completed before 1968.

It has been suggested to the Commission that one answer to the revenue problem of local authorities lies in the extension of the rating system. The municipalities already collect over £2 million from rates, in addition to graduated personal tax, and the yield could be increased by the adoption of rating based on land and improvements, in place of the present ~~ing~~ rating on sites alone. In the counties there is undoubted scope for the introduction of rating as an additional source of income: at the present time only very small parts of the counties are affected by rating and the income derived therefrom is insignificant. All this is, however, subject to the policy decision as to the level of taxation which can be allocated to the local government sector.

However, there are these obstacles to any immediate extension of rating:—

- (a) The shortage of technical staff for valuation.
- (b) The cost to councils of introducing rating systems.
- (c) Progress of land consolidation—the Commission have been informed that in rural parts rating is feasible only after land has been consolidated and title deeds issued. In some parts of the country consolidation has not yet commenced, or is still in progress.

There is need, therefore, for a decision on the future of rating—whether it should be extended and, if so, which system or systems ought to be applied. Unless the current scales for graduated personal tax can be increased, then there must be a limit, at any rate for the next few years, to the further yield which can be obtained from this tax. It seems likely therefore, that an extension of the present rating system may be the only alternative to increased Government grants to provide for expansion of local government services, certainly in some parts of Kenya.

As an interim measure, consideration could be given to the introduction of “selective” rating by those local authorities which do not levy rates at present. In many of those areas there are commercial and industrial properties which undoubtedly benefit from local government services and indeed create a demand for those services. These commercial and industrial properties make no direct contribution to the cost of local government services. It is for consideration whether or not these properties should be rated on some interim basis. It is noted that councils are empowered under the Rating Act to levy Industrial and Residential rates on the area of land used for such purposes; adequate safeguards already exist in the Rating Act to ensure the fairness of rates.

In the meantime, if it were decided to change the basis of rating from the current basis of capital site value, it is doubtful whether work should proceed on the preparation of valuation rolls for councils which are waiting to introduce rating on the present basis.

POLL TAX

The present urban, area and local councils are empowered to levy poll taxes to pay for their services. In 1965 poll taxes ranged from Sh. 3 to Sh. 25 and raised about £250,000—or about one-third of the total income of these councils. We would have discussed the disadvantages of this highly regressive form of tax except that its future must depend upon the outcome of any review of the future pattern of local government in Kenya.

PRODUCE CESSES

Most county councils and some area councils levy cesses on the sale of certain crops (e.g. coffee, maize and other grain crops). In 1965 total revenue from cesses was about £300,000, ranging from about £1,000 or less to nearly £60,000, although in only three counties is the yield in excess of £20,000. The bulk of this income is obtained from the cess on coffee. Because of collection difficulties, cesses are concentrated upon those crops which are disposed of through a recognized marketing organization, and council by-laws under which cesses are levied impose upon these organizations an obligation to deduct cess from the price paid to the producer. This method of collection is cheap and convenient.

A number of objections to this form of taxation have been received by the Commission. Cesses are a highly discriminatory form of local taxation: liability for payment depends upon two factors—whether produce is grown

within the area of a former African district council and whether that council passed by-laws prior to mid-1963 imposing cess upon a particular crop. Thus, levels and types of cesses vary from council to council and, perhaps more important, liability for payment of cess falls upon only those growers who farm in areas formerly under the jurisdiction of African district councils. Furthermore, it is claimed that the system of collection through marketing organizations is an incentive to "blackmarket" sales of produce across national borders. It has also been suggested that having regard to increased costs of production of some crops (notably coffee) and declining world prices, the imposition of a produce cess, in addition to Government Export Tax, reduces the margin of profit to a dangerously low level, particularly having regard to the need to encourage development of the agricultural industry upon which the wealth of Kenya primarily depends.

Abolition of produce cesses would create a financial problem for a few local authorities, although considered as a percentage of the overall revenue of rural local authorities, the income is comparatively small. Having regard to all the disadvantages of this form of taxation, the Commission recommend that all cesses be abolished, including those levied on forest produce and on hides and skins.

GOVERNMENT GRANTS

Grants from Government, including road grants, accounted for 6 per cent of the gross income of municipalities in 1965 and just about 3½ per cent in 1966. In counties, grants accounted for 33 per cent of gross income in 1965 and 1966. Government grants to local authorities are discussed in detail in Chapter Eight of this Report.

MISCELLANEOUS INCOME (FEES AND CHARGES, LICENCES, ETC.)

Reference has been made to the tax revenues of local authorities (graduated personal tax, rates, poll tax, cesses) and to grants from Government. The remaining part of the income of local authorities is derived mostly from fees and charges levied by councils on a wide range of services provided. Although this income cannot be classified with income from taxes, it is appropriate to describe it here.

Income from sources other than taxes and grants amounted to nearly £8 million for all municipal and county councils in 1965, and comprised approximately 40 per cent of municipalities' total income and 38 per cent of counties' total income. The largest item in this total was school fees which amounted to just over £3 million in 1965, mostly in counties, and other fees and charges from markets, housing, water, conservancy and a wide range of other services amounted to over £4 million.

The services for which fees and charges are levied may be divided into two groups:—

- (a) Charges which are not related to the cost of providing services—mostly for social services such as schools, maternity services, ambulances, etc.
- (b) Charges which are expected at least to meet the cost of providing a service—e.g. water, housing and conservancy—which, it is argued, should be paid for wholly by the limited number of users, and should not be a charge on ratepayers or taxpayers generally.

The Commission wish to emphasize the necessity for regular review of all fees and charges levied by councils, and this is specially important where charges are supposed to meet the full cost of providing certain services. In such cases there is a tendency for costs to rise and the level of charges to be increased belatedly, thus further weakening the finances of councils.

Another minor source of local government income is licence fees—although the total income from all such fees is only about £150,000 per annum. The majority of this income comes from licences on minor possessions such as bicycles and dogs, and licences issued for control purposes, for example licensing of certain trades and premises.

THE VARIETY OF LOCAL GOVERNMENT TAXES

The liability of a person in Kenya to contribute to local government by way of taxation depends primarily upon where that person lives, since different types of councils levy different taxes. For example, graduated personal tax is levied by all municipal councils and county councils—which cover the whole of Kenya, but rates are also levied in municipalities and in about half of the urban councils, whilst poll taxes are levied throughout most rural areas of Kenya, but not in municipalities.

Future Trends

It is the view of the Commission that the major part of the revenues of local authorities should come from taxes and fees and charges which are levied and collected by these local authorities. It is also considered that a substantial proportion of the revenues of local authorities should come from grants made by the Government. For the reasons stated on page 36 it is unlikely that local authorities will be provided with any new and substantial source of revenue, and the Commission's view on the possibilities of increasing the yield from existing revenues is summarized in the next paragraph.

There appears to be scope for increasing the yield of graduated personal tax, but it is unlikely that the yield from this tax can be expanded sufficiently in the next few years to meet the present level of local government expenditure, unless, of course, the range of this tax is considerably increased. The Commission has drawn attention to the importance of rating to a small number of councils and it has recommended that a decision be made on the future of rating as a source of local government revenue. It is possible that the extension of rating in rural areas could provide the county councils with an additional source of income at least as important as rating is to the municipalities at the present time. It is recognized that any such extension of the rating system might take a number of years to effect, but in the Commission's view this would be an appropriate method of financing local services, supplemented by a graduated personal tax, with or without provision of some relief for persons liable to pay both taxes.

We have recommended the abolition of cesses as a source of local government income. This may well involve additional grants to a few councils for a short period.

Finally, there is the income from fees and charges levied by councils on people who use certain services as a means of paying for those services. The Commission feel that this is a suitable means of paying for local services such as water supply, although it is doubtful whether the same consideration applies to basic social services such as primary education and those health services for which charges are still imposed. It seems likely that in the coming years there will be even greater pressures on local authorities to expand these social services. However, heavy increases in fees and charges would bear hardly on the majority of people in rural areas with low incomes; whilst in county councils any additional revenue obtainable from local government taxes in the next few years is unlikely to be large enough to provide services above the existing level. For the present, therefore, a gradual increase in Government grant may have to be the answer.

The Future Financial Prospects of Local Authorities

The first part of this Chapter deals with the present financial situation of local authorities, and it draws attention to the very serious position of most counties due largely to rapidly increasing expenditure on services, whilst their income is increasing at a very much slower pace. On the other hand, the general financial position of municipalities is reasonably satisfactory at the moment. The possibility of expanding the available income of county councils to meet the present and anticipated levels of expenditure has already been discussed. We have concluded that whilst there is scope for increasing income, any increase over the next year or two is unlikely to cover the large gap between estimated annual income and expenditure of these councils. Unless some action is taken this gap will continue to increase.

The Government Development Plan 1966-1970 anticipates that 150 new first entry classes will be opened in primary schools in the period 1967 to 1970 and at the same time the quality of primary education is to be increased by providing more trained teachers, and reducing the number of untrained teachers. On health services, the Plan forecasts that work will be started on an additional 110 health centres and Government's contribution will be restricted to half the cost of providing these centres: the balance will be met by local authorities or through self-help, although local authorities will apparently continue to be responsible for all recurrent maintenance costs.

It must be understood that revenues of local authorities are strictly limited—they cannot be increased at will and generally speaking there is no prospect of them being increased easily to meet the growing level of expenditure. In the end services must be tailored to suit the size of revenues, rather than the size and quality of services setting the pace, and revenues trying to catch up.

The foregoing brings out once again the absolute necessity for the closest co-ordination between Central Government and local government. It again emphasizes the urgent need for a forward plan of local government expenditure and prospective income over a period of say, three to five years ahead.

The Commission have been informed that some local authorities have not the technical staff to prepare forecasts of this nature. However, the Commission consider that this could be overcome and is even a reason for preparing such a plan or forecast. The extent to which local government expenditure increases or decreases must in the end be governed by the appropriate Government departments whose service requirements have a major effect on local government—for example, education, health and roads. It is then the Ministry of Local Government's function to co-ordinate those requirements, to relate them to the financial resources of individual councils, and to make a decision on the level of services which can be maintained by local authorities. If the Treasury, as the custodian of the nation's purse, feel that those total requirements need abatement, the necessary abatement must be agreed between the various ministries.

After that the Ministry of Local Government will approve the individual local authority estimates in line with Government's decision on the acceptable level of local government expenditure, taxes and Government grants. If experience up to now has shown that local authorities have entered into present and future extensions of services which involve excessive spending in relation to the national purse, then in the main it can only be due to inadequate consultations and absence of forward planning amongst these Government departments.

Finally, the Commission would emphasize strongly the desirability of adequate consultation between ministries and the representatives of local authorities before any new plans or decisions are announced which have a vital bearing on the finances and administration of local authorities.

Financial Administration

It seems appropriate for the Commission to refer to general matters relating to the financial administration of local authorities.

CAPITAL FINANCE

Capital expenditure by local authorities in Kenya is financed mostly from loans made by Central Government. The approval of the Minister for Local Government is necessary before a local authority can borrow money and in certain cases the approval of the Minister for Finance is also required.

At present, every loan is given separate approval and there is no arrangement for general approval of capital schemes or programmes of local authorities extending over a number of years.

Reference has already been made to the Government's Development Plan for the period 1966 to 1970. This Plan includes services for which local authorities are responsible and it envisages that local government will be responsible for financing part of the development. However, only a small number of local authorities have prepared their own development plans showing anticipated capital expenditure on services and sources of finance over the next few years. We would draw attention to the desirability of all municipal and county councils preparing such estimates, for a period of say, three years ahead and for these plans to be co-ordinated with the Government Development Plan. These estimates could then be used for negotiating Government agreement to development including borrowing on a broad basis, subject to more detailed approval of schemes for each year. In this way the central departments could concentrate more on broad control, rather than control in detail, and the local authorities would know with some certainty their capital building programme and other commitments for a limited future period.

It has been suggested to the Commission that local authorities should be permitted to borrow money directly from local people. This would, it is said, stimulate local interest in the activities of local government and provide an additional source of loans.

PREPARATION OF FINAL ACCOUNTS AND ESTIMATES

A recurring complaint to the Commission has been the lack of accurate financial information about local authorities, due to the absence of up-to-date financial accounts. The Commission has much sympathy with these complaints, since its own work has been hampered by the absence of recent accounts for many councils.

Local Government Regulations require local authorities to balance their financial accounts not later than 30th June following the end of each financial year. The Minister for Local Government has power to extend this date in particular cases, although we are informed by the Ministry that no such extensions have been granted. Despite this provision, by July 1966, the majority of county councils had not balanced their accounts for 1964 or 1965, as the following table shows:—

TABLE VII—STATE OF FINANCIAL ACCOUNTS OF MUNICIPAL AND COUNTY COUNCILS AS AT JULY 1966

	FINANCIAL ACCOUNTS, 1964		FINANCIAL ACCOUNTS, 1965	
	Balanced	Not Balanced	Balanced	Not Balanced
Municipalities (7)	7	—	6	1
Counties (33) ..	12	21	4	29
TOTAL ..	19	21	10	30

(Source: Ministry of Local Government)

An important consequence of the failure of so many councils to balance their accounts is that financial control cannot be exercised effectively either by the councils themselves or by the Ministry of Local Government, since there is inadequate information on actual spending, income, fund balances, assets and liabilities. Financial control is essential to the efficient working of local government everywhere, and in Kenya, it is of paramount importance in view of the shortage of resources and consequent need to obtain maximum value for all public money spent.

Two reasons have been advanced for the lack of balanced accounts in so many councils. First, the shortage of competent book-keeping and accounting staff in local government—the Ministry of Local Government estimate that only 12 out of 33 counties employ staff who are competent to prepare balanced financial accounts—and second, the complexity of the accounts and accounting systems.

The shortage of book-keepers is yet another example of the chronic shortage of trained staff throughout local government. In Chapter Nine, suggestions have been made for remedying this position, but some considerable time must elapse before the remedies can be effective. In the meantime, it is essential for all local authorities to prepare balanced financial accounts promptly and to this end the Commission suggest three possibilities. There may be retired unqualified accountancy staff who are competent to give spare time assistance, and some firms of professional accountants may be prepared to supervise the book-keeping of councils on a part-time basis for a year or two. Other counties might be able to arrange for advice and supervision to be given by senior financial staff from nearby municipalities for a short period. Finally, it should be the duty of the Ministry of Local Government to ensure that prompt action is taken if accounts are not balanced on time by councils.

In the opinion of the Commission there is scope for considerable simplification of council accounts. The Commission has been impressed by the great detail shown in the published estimates and accounts of local authorities. In most counties accounting standards are low and there is little point in keeping accounts analysed over a large number of detailed headings, if such analysis cannot be prepared promptly or accurately. It is felt that county councils could keep their accounts analysed over a comparatively small number of standard headings, without any loss of efficiency or control. This process would be greatly accelerated by the Ministry stipulating a limited number of standard headings over which counties should prepare their annual estimates, since these estimates form the basis of the analysis of receipts and payments during the year.

So far as delay in approving estimates is concerned, we have elaborated on this in the part of this Report which deals with Central Government Control over Local Authorities. It is an interesting commentary, while this Report is being drafted in August 1966, that there are still a few councils waiting to have their 1966 estimates approved, nearly eight months of this year having already expired.

The Commission suggest that a working party of financial officers from the Ministry of Local Government and representatives of local authorities should meet at once to consider the simplification of estimates and accounts, and the number of separate funds maintained, so that recommendations can be made before the 1967 estimates are to be prepared.

RATING IN KENYA

In view of the diversity of size of rating authorities in the country, the rating employed spans almost the complete range of accepted methods of property rating. The methods fall into two groups—those based on factual consideration and those involving valuation.

FACTUAL METHODS

- (1) A flat rate or graduated rate upon the superficial area of the land.
- (2) A flat rate or graduated rate upon the area of the land and according to to the potential use of land.

These two methods, known as "area rating" are simple to apply and require no technical skills. They are in operation in many small urban and rural areas of Kenya.

VALUATION METHODS

- (3) Agricultural rental value rating—based on the unimproved rental value for agricultural purposes—is in operation in certain agricultural areas where there are few small holdings.
- (4) Capital value site rating—based on the unimproved sale value of the site, assuming it is used for the purpose specified by the planning authority. This method is in operation in major urban areas in the country.
- (5) Capital value improvement rating—based on the sale value of land and improvements. This method has been introduced in the Nairobi City outer areas.
- (6) Annual value improvement rating—based on the rental value of land and improvements—though utilized in the United Kingdom has not yet been introduced in Kenya.

BASIC ADVANTAGES AND DISADVANTAGES OF RATING METHODS

<i>Methods</i>	<i>Application</i>	<i>Advantages</i>	<i>Disadvantages</i>
1 and 2.	All areas	Simplicity, inexpensive ..	Rigid application, poor distribution.
3.	Rural areas ..	Simplicity in leasehold areas, inexpensive.	Will become obsolete quickly, some professional assistance required.
4.	Urban areas ..	Good distribution of burden, encourages development, easy to maintain.	Lack of evidence, high burden on undeveloped land, requires professional assistance.
5	All areas, but principally urban.	Good distribution, consideration for ability to pay.	Some lack of sales evidence, expensive to implement.
6.	All areas	Equitable distribution, ample rental evidence.	Expensive. Requires detailed professional control.

Note: The legislation relating to these methods of rating is contained in the "Rating Act 1964". Detailed procedure under methods 4 and 5 is laid down in the "Valuation for Rating Act".

(Source: Department of Lands)

CHAPTER EIGHT— THE EXTENT AND NATURE OF GOVERNMENT CONTRIBUTIONS TO LOCAL AUTHORITIES

There are two basic principles that ought to be covered by any Government grant system. First, that it should be adequate to enable local authorities to maintain a level of local government services acceptable to Central Government. Secondly, that the distribution of any grant should be fair to all the local authorities concerned. In other words, it should have regard to the relative wealth of different local authorities and the varying financial needs of their local government services.

The present arrangement does not pay adequate regard to either of these principles. This is shown by the fact that the amount of Government General Grant has decreased in the last year, without any appreciable increase in other forms of income, although local government expenditure has increased appreciably. Also there is no exact formula for the distribution of the grant and in the end the amount of General Grant distributed is, at present, merely an assessment by the Ministry of the amount which can be afforded to an authority towards making ends meet. For a variety of reasons that grant may not, and often does not, turn out to be adequate after all, and this partly accounts for the increasing financial deficiencies of the county councils in particular. In practice, for example, the actual yield from graduated personal tax may be less than the estimated yield taken into account when the grant was fixed. In this connexion we may quote an extract from a report to the Commission by the Ministry of Local Government:—

“It will be seen that the total grants available to county councils in 1966 are considerably less than those paid in 1965. This was because of the Treasury view that strengthening of the recovery provisions in the graduated personal tax legislation would result in increased collection, and diminish the need for grants.”

In fact, the amended graduated personal tax legislation has not yet been passed by Parliament, and therefore can have little effect on the collection of graduated personal tax in 1966.

It is only fair, however, to point out that when graduated personal tax was introduced in 1964, it was then intended that local authorities should collect that tax and that they should have the necessary powers to “recover tax moneys promptly”. It was also apparently intended that the then proposed regional authorities, which in practice only lasted a year, should have revenue moneys of their own and that they would “devise grants to suit the local circumstances” for local authorities in the region. Emphasis was, even at that time, placed on grants for the education services. Therefore, when these regional authorities were dropped at the end of 1964 and the whole position centralized in the Ministry of Local Government, there was no common grant system for that Ministry to take over.

In practice, the present Government grant allocation must have several defects and the Ministry themselves are conscious of these defects. Consequently, they, as well as the local authorities who depend upon that grant to balance their accounts, are anxious to have the whole question of Government grants reviewed. The difficulties, however, facing any review of the present grant system, stem not only from the defects in the present graduated personal tax system or the present Government grant system but also in the varying forms of local government income now operative throughout Kenya.

First of all, in fairness to all the local authorities, it must be emphasized that many have no stable income from which to meet their expenditure. The yield from graduated personal tax, which is undoubtedly more important to some local

authorities than others, is, as already mentioned, a variable factor. The yield for any financial year is that which the collectors achieve, and even allowing for estimated losses in collection it is not a figure which can be predetermined before the commencement of a financial year with accuracy.

TABLE VIII—EXAMPLES OF COLLECTION OF GRADUATED PERSONAL TAX

<i>Local Authority</i>	1964 £	1965 £
Marsabit County Council	11,011	2,972
Kitale Municipal Council	23,063	24,188
Taita-Taveta County Council	35,000	47,546
Kwale County Council	43,062	43,863
Nyandarua County Council	47,600	59,686
Embu County Council	58,231	43,314
Kitui County Council	79,265	62,000
Kisumu Municipal Council	82,996	102,719
Gusii County Council	96,853	92,932
Kipsigis County Council	172,330	167,050
Sirikwa County Council	203,651	206,591

Furthermore, it is not easy to suggest a grant formula to be applied amongst local authorities which have varying forms of local taxation, particularly in those cases where they have a common range of local government services. Whilst all the major local authorities receive graduated personal tax, the seven municipalities and four out of the thirty-three county councils also levy rates in some form or another—the four county councils within parts only of their area.

Two other important factors complicating any grant formula suggestions are the absence of any forward plans as to the expenditure level of local government which is to be gradually achieved over the next, say, three or five years; and the corresponding problem for the Treasury as to what levels of any total Government grant for local government they would be prepared to accept for that period. There are, of course, many more problems, not least the extra grant that ought to be available for less prosperous areas and the necessity for up-to-date statistics—particularly financial accounts.

Most of all we are conscious that any form of Government grant must be related to the intended form of local authorities and the range of local government services in the immediate future. There are several matters raised in this report which need urgent consideration and decision, particularly the future of the primary education service. Upon those decisions will depend the way in which an approach can be made to this problem of Central Government grants to local authorities. We are, therefore, of the opinion that the present rather “hand to mouth” grant system will need to be continued for another two years, most likely at an increased total. Even that may not be easily contained within a range acceptable to the overall national finances unless there is some early decision on an agreed rate of growth in the net expenditure of local government over the next two years. That net expenditure figure, of course, would be the gross expenditure of local government less other income, but exclusive of any Government general grant.

Within that time the following must have attention:—

- (1) A review of the future graduated personal tax and concurrently with this, as mentioned elsewhere, an improvement in the assessment and collection

system appertaining to that tax. This is vital because if graduated personal tax is to continue as a mainstay of local government finance, undoubtedly consideration will have to be given to the varying yields of that tax in relation to individual local authority areas. There may, for example, be a case for pooling a portion of graduated personal tax yields for redistribution throughout the local authorities.

- (2) A decision on various related matters in this report, for example, the range of local government services, the possibility of some alteration in local government areas, and the future of rating.
- (3) A forward expenditure programme for local government.
- (4) Following that, an indication by the Treasury of the size of any Central Government grant to local authorities which the Treasury could accept with some degree of certainty for three or five years.

Grants for Maintenance of Roads

This grant is paid by the Ministry of Works to municipal and county councils. It is based on a rate of maintenance expenditure per mile of road acceptable to the Ministry of Works, according to the class of road. In addition to the grant for actual maintenance works, the Ministry of Works also pay an Administrative Grant. Any expenditure by councils in excess of these grants on maintenance of secondary roads must be met from their own funds. Municipal councils are responsible for maintaining trunk roads in their areas and grants are made on the same basis as for secondary roads in their case. In addition, certain county councils maintain trunk roads on behalf of the Ministry of Works and receive appropriate grants. There have been complaints by several authorities who have appeared before the Commission as to the adequacy of these grants. The Commission feel that this sort of thing can profitably be discussed periodically between the Ministry of Works and A.L.G.A.K.

The Commission are also of the opinion that some form of proper certificate ought to be prepared by a local authority ensuring that any Government grants for road works have been properly expended on those works. This form of certificate could be agreed between the Ministry of Works and the Ministry of Local Government. The auditor ought to make special reports to the Minister in any cases where grant moneys are mis-applied.

TABLE—IX

EXAMPLES OF TOTAL EXPENDITURE, EDUCATION EXPENDITURE, AND
THE PRINCIPAL SOURCES OF INCOME BY WHICH EXPENDITURE IS FINANCED IN COUNTY COUNCILS

COUNTY COUNCIL	POPULATION 1962	ALL SERVICES		PRIMARY EDUCATION					GRADUATED PERSONAL TAX			GENERAL GRANT		
		Gross Expend. *	Gross Expend. per Head of Pop'n.	Gross Cost	School Fees Income	Fees as percent of Gross Educ'n Cost	Fees as percent of total Gross Expend.	Fees Income per Head of Pop'n	TOTAL INCOME	As per cent of total Gross Expend.	Per Head of Pop'n.	TOTAL INCOME	As per cent of total Gross Expend.	Per Head of Pop'n.
		£ 000	£	£ 000	£ 000	%	%	£	£ 000	%	£	£ 000	%	£
MARSABIT	37,500	28	0·7	12	1	8	4	—	5	18	0·1	17	61	0·5
OLKEJUADO	68,400	128	1·9	60	7	12	6	0·1	35	27	0·5	33	26	0·5
KWALE	157,800	126	0·8	57	21	37	17	0·1	55	44	0·3	32	25	0·2
BUNGOMA	241,900	362	1·5	248	123	50	34	0·5	50	14	0·2	99	27	0·4
NYERI	279,000	528	1·9	402	169	42	32	0·6	125	26	0·4	134	25	0·5
KIPSIGIS	375,700	461	1·2	285	153	54	33	0·4	170	37	0·5	55	12	0·1
SIRIKWA	503,200	598	1·2	364	147	40	25	0·3	193	32	0·4	143	24	0·3
MASAKU	571,600	697	1·2	518	278	54	40	0·5	176	25	0·3	165	24	0·3
KISUMU	595,000	616	1·0	468	190	41	31	0·3	145	24	0·2	161	26	0·3
KAKAMEGA	600,200	747	1·2	596	246	41	33	0·4	155	21	0·3	203	27	0·3
ALL COUNTIES .. .	8,012,000	10,001	1·2	6,442	2,778	43	28	0·3	2,510	25	0·3	2,509	25	0·3

*Excluding any agency expenditure on Trunk Roads.

(Compiled from 1965 revised estimate figures supplied by Ministry of Local Government.)

CHAPTER NINE—THE MEANS OF STRENGTHENING THE QUALITY AND SECURITY OF LOCAL GOVERNMENT STAFF, INCLUDING APPOINTMENTS AND DISCIPLINE

Throughout the proceedings the Commission have been impressed with the universal problem of recruiting adequate and competent staff. Whilst the Commission do not wish to overstress the point, they feel that apart from the question of financial resources referred to elsewhere, this question of staff is the most critical part of the present local government service in Kenya. At the request of the Commission, the Ministry of Local Government have therefore made a review of the staffing requirements if that Ministry is to be able to cope with the existing, let alone an expanding service. The review has also covered what, in their opinion, are the staffing needs in the various local authorities. This review can be summarized as follows:—

Ministry Staffing.—There are at present 16 vacancies out of an establishment of 60. Out of the 44 at present employed, 31 are engaged on audit work, but only five of the 31 seem to be of senior capacity. The extent to which the Ministry's financial staff ought to be strengthened depends upon the audit work which they can transfer to professional firms. There must, however, be a limit to any possible transfer of this nature. In the meantime there is an immediate need to fill at least ten posts at a senior level. Some of these will be required for the decentralization suggested in Chapter Six.

Local Authorities.—According to a survey conducted by the Kenya Institute of Administration, there are in all, some 850 officers in service with local authorities who require training at one level or another. Of these, some 340 are financial staff, ranging from treasurers to ledger clerks. The immediate requirement seems to be about 20 qualified officers for those councils where the staff are unable to prepare final accounts. In addition about 200 adequately trained book-keepers or finance clerks are undoubtedly needed. They must, however, be competent to keep proper financial records and maintain financial ledgers and the like. Training for this exists locally, but it would require rapid expansion to meet local government's short-term needs.

This estimate can be compared by the Commission only in relation to the information supplied at various stages of our inquiry. For example, the position regarding financial administration is referred to in the two chapters dealing with the General Financial Situation of Local Authorities, and the Extent and Nature of Government Control over Local Authorities. The Ministry's estimate of staffing requirements is in no way pessimistic, and it is very apparent that the whole question of staffing in the local government sector needs not only an overall review, but urgent action. It will also have to be prosecuted by an officer with a good deal of drive, imagination and initiative.

On the accountancy and general administrative sides a modest contribution in training is being provided in particular by the Kenya Institute of Administration, but this makes very little progress towards solving the immediate problem. There are also some partly qualified and partly trained staff already holding positions in local government, but these cannot be easily replaced for their final training unless temporary replacements can be found for them. The problem at the younger end is therefore twofold—the development of more academic training; and the provision of suitable training on the job, i.e. the actual operational side—so that in a reasonable time some of these younger partly trained staff can take a more prominent place in the local government administration.

It is obviously not within the scope of the Commission to deal exhaustively with this problem, not least because it covers so many fields. We have therefore looked at one particular and indeed pressing part—the financial administration. Whilst there is obviously a real need for more qualified staff and top level administrators, there is at the moment an even more pressing need for competent book-keepers or ledger clerks who would be able to maintain the financial accounts of a local authority in proper order and who would be able to complete a set of final accounts. The Commission feel that an intensive search should be made for these amongst Kenya citizens, irrespective of race, but that it is no use appointing candidates who cannot adequately perform the duties of any post. In addition, there is a similar shortage of trained clerks to undertake the routine financial work of a local authority, e.g. reconciliation of bank accounts.

This is not to discount the need also for senior administrators and financial officers who can not only strengthen the present quality and production in the day-to-day work of local government offices, but also provide or organize training on the job. That is essential; but unfortunately, it is becoming increasingly difficult to recruit many of these and intensive local training schemes will have to be developed. Whether some of the staff shortage can only be met in the end by a limited amount of overseas recruitment is a matter of general policy, but the Commission would emphasize that if these are recruited then they should have a distinct aptitude for training other staff so that in a matter of two to three years they could be replaced. There is no great advantage in various local authorities as well as the Ministry trying to recruit staff from overseas except by a system of joint recruitment.

In addition, we offer a few suggestions which might be considered by those who will have to solve this question of financial staff in due course:—

- (1) Wider and more comprehensive training schemes with possibly greater emphasis on intensive book-keeping courses.
- (2) Introduction of a limited number of graduates who could undertake a certain amount of work in connexion with the Ministry's responsibility for occasional inspection into the procedure of a local authority.
- (3) Direct recruitment of 12 juniors with adequate school examination qualifications who would serve a bonded apprenticeship with the Kenya Government. These would receive practical training in Local Government finance, both with the Ministry and with local authorities, and would also receive suitable training for their professional qualifications.
- (4) A review to provide wider training facilities through, but not necessarily at, the Kenya Institute of Administration—in particular there might be occasional weekend courses in various parts of the country for the senior financial officers on the various matters of controls mentioned in the Local Government Regulations, e.g. procedure on tenders, unauthorized payments and the like.

STAFF COMMISSION

There is undoubtedly some feeling of insecurity among the local government staff in Kenya. In so far as it has been expressed, it relates to a feeling that certain appointments are made irrespective of merit and more with an eye to local connexion. Whilst this feeling exists, it has been suggested that there can be no reliance that any outstanding employees in the local government service will necessarily rise to the top.

There is already a Local Government Staff Commission in existence, but it is very much an advisory body and in fact in the practical sense performs very little work indeed—or seems hardly to justify its existence. At various stages

in our inquiry, the question of introducing a more thorough Local Government Staff Commission has been raised and we have had various points of view about the functions which ought to be allocated to such a revised commission. It is accepted by all local authorities that this commission ought to cover the following:—

Staff training.

National salary scales for various classes of local authorities and local government officers with adjustments for certain high cost of living areas.

Standard conditions for travelling allowance scales, annual holidays, sick pay, etc.

Providing an Appeal Committee to which both employers and employees might appeal on certain specific grounds.

Maintaining a national local government pension scheme to facilitate transfer of any local government employee between local authorities.

It is, however, in the question of recruitment and appointment of staff that we have had varying opinions. Those few local authorities who have little complaint about the present staffing position tend to take the view, at the one extreme, that the appointment of staff should rest wholly with the local authority. At the other extreme there has been a suggestion that the Staff Commission ought to appoint and in fact be the legal employer of all local government staff.

At this stage perhaps it might be important to mention a difference between staff employed in the local government field as compared with those employed by Central Government. Local government staff, particularly in the senior branches, tend to work closely with the various local authority committees. In fact, it is true to say that most of them build up a close personal working relationship with these members. This arises because the committee who are determining policy need to be reinforced by people who can both explain alternatives to that committee and also in the end carry out the agreed policy amongst the people covered by the local authority.

There is also a fear amongst local authorities that if the chief officers of local authorities were to be appointed centrally, then certain sections of the population might not get fair representation in the control of local government matters which are essentially matters of local concern.

Undoubtedly, the present Local Government Staff Commission, which seems to be relatively inactive because it is mainly available for optional use, needs complete revision. We have therefore come to the conclusion that a revised Local Government Staff Commission is indispensable in the future local government administration for Kenya. The difficulty, of course, is to decide upon the scale of operation of any new staff commission. It is not for us to set out a proposed constitution for this commission in detail, but we feel that the following indicates an acceptable scheme so far as appointments are concerned, and one which promises favourable results:—

- (1) That whilst any Local Government Staff Commission should cover all staff, they should have the power and be encouraged to delegate the appointment of all except chief officers and deputies to individual local authorities or indeed to their chief officers. This, however, would be subject to the Staff Commission being satisfied in relation to individual local authorities, that applicants were being appointed on merit in addition to other qualities. To ensure this, the Local Government Staff Commission could reserve the right to send an observer on occasions to meetings of an appointing committee.

- (2) That the Local Government Staff Commission should play a major part in the appointment of chief officers and deputies when those posts fall vacant. To give a complete feeling of security and opportunity to local government staff these posts, when vacant, ought to be advertised and, in view of the special interest of the local authority concerned, a limited short list from applicants ought to be selected by a joint committee of members of the staff commission and members of the local authority concerned. We have given thought to the subject of compulsory transfers within the local government service but on balance in the interests of recruitment and continued service in local government we favour public advertisement of all vacant posts above certain level.
- (3) Applicants on that short list would then be referred to the local authority concerned who would then make the final selection.
- (4) The local authority would have to appoint from that short list, and in that case the Minister's approval would not be necessary to the appointment.

We feel it is desirable that a scheme should be put forward whereby the co-operation of the local authorities would be forthcoming. In our very detailed discussions with the various local authorities, which have come before the Commission, we have found that such a proposal about chief officers' appointments, even from those who originally did not favour a Local Government Staff Commission, would probably be accepted. We would hope that any proposed scheme would be discussed with A.L.G.A.K. before any final decisions were made, as it is essential to achieve, so far as reasonable, their co-operation in the implementation of this proposed Commission.

COMBINED STAFF COMMISSION

At present there are at least four staff commissions in being or proposed: the Judicial Service Commission, the Public Service Commission, the proposed Teachers' Service Commission and the proposed revised Local Government Staff Commission. We have given some thought as to whether these ought to be combined in one body. At first glance this would certainly have several advantages: it would reduce the number of top level administrators needed to staff such bodies, and it would also achieve gradually some common standard in the salaries and service conditions of all those working in the public service.

On the other hand, it is clear that for the next two or three years the building up of a Local Government Staff Commission will be quite a complicated undertaking and it will need to be undertaken by people who have, and can maintain, a close relationship with the local government service which has its own special features and acute staffing problems. In addition we cannot divorce the drive for improved staffing from the corresponding improvement and review of local government as a whole. All of this must be kept in step, otherwise there is a real danger of the right emphasis not being achieved. We therefore favour a separate staff commission for the present, administered within the ambit of the Ministry of Local Government, with an independent chairman and possibly two independent members. Only in this way, it seems, would the staffing problems and the review of the local government administration be able to be co-ordinated with the general proposals for a proposed staff commission.

Irrespective of any merger in the future of these staff commissions, we recommend a co-ordinating committee of, say, the chairmen and secretaries of such commissions. These should meet when any major matter is before any of the commissions. Frequently a decision on staff pay or other conditions for one sector of the public service employees has repercussions elsewhere. This suggested co-ordinating committee would be used to consider the wider implications of any such proposals.

SOCIETY FOR CHIEF OFFICERS

A proposal has been made that there should be a society set up in Kenya to which all chief officers might belong. It is not for us to decide or set out what would be an acceptable range of chief officers for such a society or a detailed constitution, but the suggestion certainly has much to commend it. It would presumably meet occasionally throughout the year and would enable discussions to be held on various general matters affecting the administration of local government. It could also act as a liaison between the principal staff of the Ministry and the chief officers of local government. A particular advantage would be that the inexperienced chief officers would have the benefit of consorting occasionally with other chief officers in the country and thereby obtain some benefit, and indeed, education in local government top level administration, from those chief officers with longer experience.

RELATIONSHIPS OF COUNCILLORS AND STAFF

We are satisfied that in certain cases some members of local authorities are in the habit of exceeding their place or responsibilities in local government, and have already touched upon this matter in the chapter on the Composition and Constitution of Local Authorities. It is worthwhile repeating the obligatory Standing Order No. 21 which appears in the Local Government Regulations:—

“A member of the council, unless authorized to do so by the council or a committee, shall not—

- (a) inspect any lands or premises which the council has the right or duty to inspect, or enter upon or issue any order respecting any works which are being carried out by or on behalf of the council;
- (b) issue any order with regard to any matter under the jurisdiction of the council or give instructions to any employee of the council;
- (c) engage in any correspondence for or on behalf of a council;
- (d) write a letter as councillor purporting to convey a decision of the council or an instruction of the council without the express approval and authority of the Council.”

It is important to stress that no member should interfere within the area of management reserved for the executive action of a chief officer. If any member of a council has any point to make, that point should be directed to the chief officer, or failing satisfaction, then any matter of real importance should go to the appropriate committee.

In a similar way, members of local authorities have no authority to comment in public on the services of individual staff or embarrass them by borrowing council property. In the interests of any member it should only be in exceptional cases and then only when properly authorized that any member should allow his private requirements to become involved in the use of council property.

DISCUSSIONS OF INDIVIDUAL STAFF MATTERS IN OPEN COUNCIL

It is important to remind members of local authorities of the existing obligatory Standing Order No. 15:—

“If any question arises at a meeting of the council as to the appointment, promotion, dismissal, salary or conditions of service, or as to the conduct, of any person employed by the council, it shall be considered by the whole Council in Committee.”

Chairmen and clerks of councils should see that this standing order is complied with. If it were not complied with then any staff concerned would have the right to make a case to the Appeals Committee of any Local Government Staff Commission.

STAFF DISCIPLINE

It is hoped that the proposed staff commission would lay down national rules as to the way in which any staff discipline ought to be exercised, and in particular protect staff against any disciplinary action by unauthorized members of a council. On the broad issue, it may be worth pointing out that the Appeals Committee on any proposed staff commission ought to be available to employers as well as employees.

RELATION OF LOCAL GOVERNMENT ADMINISTRATION WITH PROVINCIAL AND DISTRICT ADMINISTRATION

It seems to be generally accepted that there is some danger of duplication between these two forms of administration. We find, for instance, that district commissioners feel they have some responsibility for co-ordinating all public services in their area. It is apparent therefore that if the Ministry of Local Government and the various authorities are also co-ordinating, as they should, their own activities, there is a very real possible wastage of trained administrative manpower.

In the long run, it seems likely that much of the district administration will come mainly within the scope of the various Ministries. For some time, however, we think that the present possible overlapping will continue and probably should continue for the least efficient areas. We are informed that the present establishment of administrative staff in the provincial and district commissioner's offices can be summarized as follows:—

District Commissioners	41
District Officers	149
District Assistants	81
Chiefs	503
Sub-chiefs	2,420
Total ..	<hr/> 3,154 <hr/>

In addition there are about 5,000 administrative police. We are quite aware that this administration has an important part to play in the national development of Kenya, but we express the hope that a closer examination might be made of the current duties of these personnel. The need for emphasis on local government and the forward planning needs of local government involve responsibility for co-ordination resting on the Ministry of Local Government. This ought to make possible, now or in the future, the diversion of some officers into full-time local government service. In the meantime, there seems to be undoubtedly scope for a better working relationship.

CHAPTER TEN—ALLOWANCES (IF ANY) TO BE MADE TO MEMBERS OF LOCAL AUTHORITIES

The latest circular to local authorities regarding the above was issued as recently as December 1965 and there has not, therefore, been a great deal of experience since that date.

MAYORS AND CHAIRMEN

Where the expenses of the office of a mayor or chairman of a council are met directly by the local authority concerned, then it would seem that the allowances shown in the Ministry of Local Government Circular No. 72 of 1965 are somewhat generous and ought to be reduced. If this is accepted, then the allowances for deputy mayors, vice-chairmen and chairmen of committees should be scaled down accordingly.

OVERNIGHT ALLOWANCES

We have been approached regarding members of certain local councils who might have long and difficult journeys to make in attending council and committee meetings. Such journeys could occasionally involve overnight stays for which, at present, there is no allowance. This in our opinion places any such members at some disadvantage. Whilst making no specific recommendation, the Commission are of the opinion that the Ministry of Local Government might well look into these special cases. It ought to be possible to authorize special occasional allowances in such cases and yet protect the council against abuse.

TRAVELLING

Whilst we accept that the allowances for attending meetings might be fixed on a basis of an assumed number of occasions, nevertheless, we are of the opinion that travelling expenses should be paid according to the number of journeys actually made on council business.

PUBLIC BODIES GENERALLY

There has been some adverse comment before the Commission that the allowances for members of local authorities are not so favourable as for other bodies, in particular Provincial Advisory Councils. There may well be exceptional cases, but in general we feel that there should be no disparity between the allowances made for public bodies generally and that, in so far as possible, they all ought to be in line with the allowances in the Civil Service.

PUBLICATION

We have also considered whether it might be wise to keep an annual record of any allowances paid to members which would be available for public inspection. Although the total amount paid in allowances is often small in relation to the council's annual expenditure there is the principle involved that it is public money which is being disbursed. On the other hand these allowances to members are within the control of the Ministry of Local Government, and therefore we are of the opinion that in all the circumstances the public interest is already reasonably well protected.

CHAPTER ELEVEN—THE MEANS OF IMPROVING THE CAPACITY OF LOCAL AUTHORITIES TO CONTRIBUTE TOWARDS THE IMPLEMENTATION OF THE NATIONAL DEVELOPMENT PLAN

In discussing this with various local authorities we have been impressed with the absence of any provision for individual local authority participation in preparation of the draft plan. Apart from any other advantages from more direct local authority connexion with the plan it would seem desirable at least to consult them officially.

The Commission is of the opinion that the local authorities either individually or in suitable groups ought to be consulted at the drafting stage and also at the stage of implementation on any matters affecting local government.

As we have already mentioned elsewhere we take the view that there is everything to be said for each county council appointing a development committee which would be required to co-opt representatives somewhat as follows:—

- Any municipalities within the county.
- Appropriate Central Government officers in the area.
- Local M.P.s.
- Industries.

It would be their duty to collect and examine schemes to be put forward to the appropriate Ministry and also give advice as to any relevant priority and control the implementation.

This Committee should be a high powered and competent body with a good deal of delegated authority and its membership would be helped in that direction by the "handpicking" of the co-opted members. They might also take some interest in such self-help schemes as might be put forward by other bodies. Such a county development committee would serve as a centralizing body with the use of existing administrative backing and might well take the place of the new district development advisory committee. We are informed that these advisory committees, in certain parts at any rate, do not seem to have made progress.

NAIROBI AND MOMBASA

The social, economic and physical planning of a city like Nairobi cannot be undertaken apart from the development of its metropolitan area, and indeed the growth in population and economic opportunities of the nation as a whole. The City Council itself does not have the resources, nor the breadth of jurisdiction, to take on single-handed the development of the nation's capital. Nor, since the future of Nairobi is of concern to all Kenyans, can it be fairly controlled only by the City's residents. We suggest that a development authority for the Nairobi metropolitan area be constituted, under an executive director responsible to an independent board under the Mayor's chairmanship on which local and central government—officials and elected members—and, for example, commercial interests, trade unions and University College would be represented. This Authority would work out and execute a comprehensive development for the Nairobi region.

This same point is made by the Commission in relation to Mombasa.

CHAPTER TWELVE—MISCELLANEOUS

LOCAL GOVERNMENT REGULATIONS

We would draw attention to the present published Local Government Regulations. In certain parts these have become out of date and the Regulations need revision for that reason alone, apart from any revision which may arise as a result of this Report. When the revision takes place, however, it is desirable that the present somewhat detailed form should be simplified.

NORTHERN AREAS

We are very conscious that in certain parts of the country the present conditions are not favourable to the accepted standards of local government. Whilst we are of the opinion that the main form of the general national pattern of local government needs to be maintained in these areas, we are anxious that consideration of the following special points should not be overlooked:—

Membership.—It can be extremely difficult to ensure a reasonably effective council by popular election. This is an example of the point we made elsewhere, that in some cases a greater proportion of nominated members is undoubtedly essential. In that connexion it seems important to avoid so far as possible nominating persons who are likely to be transferred to other parts of the country at short notice. It has a very unsettling effect if a nominated member becomes say, chairman of a finance committee or indeed, a council and within a few months is moved elsewhere.

Finance.—This is a particular problem to such areas. Because of the local conditions it is not easy to make a satisfactory collection of graduated personal tax and again because of these local conditions many of the assessments to graduated personal tax must be very small in amount. If a reasonable standard of local government services is to be provided then special emphasis ought to be given to Government grants.

Staffing.—It may be difficult for some time to come, to provide adequate competent staff for these areas and there is a need for periodic seconded Ministry advisory staff, probably on a part-time basis. This is a difficult point in view of the overall staff shortages, but one which, in the midst of these other numerous staffing problems, the Commissions hope will not be overlooked.

COMBINED COLLECTIONS OF REVENUE

There may have been a need for a variety of collection offices throughout the country, but the Commission suggest that the distribution of these separate collecting offices might well be reviewed and if possible merged with local government revenue offices. This would be not only a saving in manpower and cost but would also be of considerable advantage to the public.

ALLOCATION OF PLOTS

At one stage in our inquiries the point was raised by an urban council that they had little representation on the Plot Allocation Committee. Apparently they had only one representative who was their member of the county council, and there was no direct or adequate representation from the urban council itself. As this affected not only the district but the allocation of plots within the township itself, they felt that the matter ought to be reviewed. The Commission feel that this is a well merited suggestion.

PLANNING

We have no points to raise on the detailed work of planning but we noted at one stage the apparent absence in the case of the smaller local authorities, such as urban councils, of a statutory right of appeal against the advice

and decisions of the Commissioner of Lands. We hope this matter of a statutory right of appeal will be pursued by the Ministry of Local Government so that the appropriate local authorities are reasonably well protected.

SETTLEMENT AREAS

The Ministry of Lands and Settlement raised the following two points with the Commission:—

Estate Roads.—The Department of Settlement has planned and constructed roads to serve each holding. Financial provision for the construction but not for the subsequent maintenance was included in the original pre-settlement development grant moneys made available by the British Government at the rate of Sh. 15 per acre for planning and Sh. 6 per acre for survey. It is impossible to provide an exact estimate of the cost of road construction per mile since roads, cut-off ditches and plot boundary ditches, were constructed simultaneously by soil conservation machinery. It is estimated that road construction has averaged about Sh. 5 per acre. The roads have been shaped but not hard-surfaced. Their construction standard has not reached that minimum standard required by the Roads Authority before they will agree to take over the roads. The maintenance of these roads must become a community and local authority responsibility immediately after their initial construction.

Water Supplies.—Pre-settlement planning has been carried out to provide water within half a mile of each holding and where permanent streams and rivers have not existed, water holes and small dams have been constructed by soil conservation machinery accordingly. Piped water reticulation schemes are being sought and a number have been purchased with the land, viz.:

The Kinangop Ring Main.

The Kahuru-Kinja pipe line.

The Narosurra pipe line.

It is the opinion of the Department of Settlement that the provision and maintenance of these and future piped water schemes should be the responsibility of the local authorities.

The Commission draw the attention of the Ministry of Local Government to both these points. It has also been suggested that there are other problems relating to local government in these areas—e.g. rating—which would justify direct discussions between the two ministries.

MINORITIES IN LOCAL GOVERNMENT AREAS

Complaint has been made in two cases that a particular group within two separate counties have had no reasonable extension of local government services. That has also led to suggestions of a change from their local government area or a change in their present local government status. We have drawn the attention of one particular county council to this by correspondence, but have had no further information up to now. In the circumstances we have asked the Secretary to inform the Minister for Local Government about these cases so that they can be followed up to see what justification there may be for these complaints. The Secretary will, in due course, inform us of the result of these investigations.

BY-LAWS

Among other provisions these contain the authority for many small items of local authority income, such as licence fees. There is a general complaint as to the delay in having these approved. We are informed that this is often due

to inadequate ability in the local council offices and also that drafts submitted are often based on the old African district council by-laws which are deemed to have been revoked. In any case, they are no longer suitable as a working draft. There are several other explanations as to the cause of this delay, but in particular we understand that the Attorney-General's Department are understaffed and unable to give prompt attention to this matter.

It is undoubtedly desirable that this problem should be attended to as soon as possible particularly as it affects or could affect the income of some authorities. It would also seem to be helpful for a suitable form of draft by-laws to be circulated for the information of those local authorities who wish to submit further new by-laws or some amendments.

PRIORITIES OF THIS REPORT

In view of the references to the need for forward planning and settlement of priorities, it is only right that the Commission should indicate their own views on the relative priorities which should be followed in dealing with some of the problems set out in this Report:—

- (1) A decision about administration and finance of Primary Education.
- (2) Income Estimates for 1967.
- (3) Staffing.
- (4) Co-ordinating Committee—1967 Estimates.
- (5) Outstanding financial accounts.
- (6) Graduated Personal Tax—review of procedure.

The Commission cannot over emphasize that the implementation of those recommendations in this Report which are accepted needs to be very carefully planned and co-ordinated, otherwise much effort could be wasted.

SECRETARIAT

Finally we are anxious to express our appreciation of the services rendered throughout this Inquiry by our Secretary, Mr. G. W. J. Aston, of the Ministry of Local Government. It has been an exacting task for him.

Also we thank Mr. D. C. MacDonald of the Kenya Institute of Administration who gave assistance in the final stages of our Report, particularly in that important part devoted to the finances of local authorities.

(Signed) W. S. HARDACRE,
Chairman.

R. S. MATANO,
Member.

J. MWANGI,
Member.

B. A. OGOT,
Member.

G. W. J. ASTON,
Secretary.

Nairobi,
7th September 1966.

SUMMARY OF RECOMMENDATIONS AND PRINCIPAL COMMENTS

Chapter Two—Broad Pattern of Administration of Local Government

Ministry of Local Government must—

- be co-ordinating factor on all local government matters;
- have a fair allocation of finance and staff;
- keep Parliament informed of progress in local government.

Local authorities must accept broad pattern of control exercised by Ministry of Local Government.

Value of A.L.G.A.K.

Chapter Four—Composition and Constitution of Local Authorities

Abolition of first- and second-class status for municipalities and counties.

Joint municipality/county committees for certain services.

Indirect election from area councils to county councils.

Discontinuation of reserved seats.

Continuation of nominated members, especially for “weaker authorities”.

Phasing out of aldermanic system.

Literacy qualifications essential.

Councillors’ guide to local government.

Mobile educational team.

Local government periodical.

Emphasis on Standing Order 21 as to limit of councillors’ duties.

Mayor or chairman’s term of offices extended to two years—no immediate re-election.

Four-year term of office for councillors—half members subject to re-election at two-year intervals.

General review of local government areas.

Municipal boundaries to be generously drawn.

Local councils within municipalities should be temporary arrangement.

Urban councils for small towns, with additional taxation powers to provide local services and possibly delegation of services by county council.

Complete review of remaining parts of county to constitute new area councils as second-tier—limited number of meetings attended by county council representative—staff to be employed by county council.

Scheme of county administration for each county.

Relationship between urban and area councils.

City status for Mombasa.

Precedence of mayor or chairman on civic occasions.

Chapter Five—Mandatory and Permissive Functions

Delegation of county council functions to stronger minor authorities.

Government financial assistance needed to enable local authorities to improve present standard of services.

Need for fixed limits if any education precepting system—Commission suggest a fixed proportion of graduated personal tax.

However, Commission recommend local authorities retain responsibility for administration of primary education—

Statutory education committee, with statutory co-options and statutory duty to maintain acceptable standard of primary education;

Ministry of Education to co-operate with Ministry of Local Government on education estimates.

Urgent need for decision on future administration of primary education.

Policy decisions should be made in conjunction with decisions as to consequential financial effects.

Clarification as to division of responsibility for health services between Central Government and local government.

Central Government should make contributions to non-Government hospitals.

Full discussions with Ministry of Local Government on maintenance costs involved in expansion of health services.

Periodic review of road classifications.

Road maintenance arrangements should be kept under review to avoid duplication.

Housing should come within the scope of local government administration, to avoid duplication.

Services which might be made mandatory for local government—

(a) Community development;

(b) Initial stages of National Development Plan;

(c) Water distribution;

(c) Urban road passenger transport.

Chapter Six—The Extent and Nature of Central Government Control over Local Authorities

No alteration in Ministry of Local Government controls over local authorities, but implementation to be improved.

Decentralization of senior local government officers.

Provision for interests of associated Ministries.

Minutes should record that member left meeting after disclosure of interest, otherwise proceedings invalid.

Periodic return from members making general disclosure of certain interests.

Control on tender opening procedure.

Group tenders and centralized tenders.

Division of audit and inspection functions.

Prompt audit essential—suggestions for alleviation of arrears.

Special and continuous audits.

Audit reports should be published.

Longer initial period for any commission appointed to run affairs of local authority.

Form of local authority annual reports.

Strengthening of officers' powers in respect of improper payments.

Financial regulations.

Approval of income estimates first.

Fixed date for approval of estimates.

Circulation of summary of Local Government Regulations to officers and members.

Chapter Seven—General Financial Situation of Local Authorities

County councils' financial situation a matter for serious and urgent consideration.

Especially serious position of seven county councils.

Wrong to use special fund balances to finance general services.

Less serious situation in municipal councils' expenditure and income.

Additional revenues to finance local government services must be obtained from existing sources.

Preferable for local authorities to collect own revenues.

Graduated personal tax must provide a major source of local authority income for a number of years.

Consideration whether councils should levy their own rates of graduated personal tax.

Improvement of graduated personal tax enforcement procedures.

Review of graduated personal tax assessment procedures.

Graduated personal tax legislation should be sufficiently flexible to permit local authorities to be fully responsible for assessment and collection in due course.

Improvement in graduated personal tax collection would not, of itself, solve county councils' financial problems.

Review of graduated personal tax transmission arrangements.

Possible extension of rating.

Possibility of "selective" rating on commercial and industrial properties.

Whether valuation on capital site value basis should be continued.

Abolition of all produce cesses.

Regular review of scales of fees and charges.

Increase in Government grants.

Services must be tailored according to available revenues.

Co-ordination between Central Government and local government in preparing a forward plan of local government expenditure and income over next three to five years.

Consultation between Central Government and local government before announcement of plans or decisions affecting finance and administration of local authorities.

Forward planning of local authorities' capital expenditure programmes.

Suggestions for achieving balanced local authority financial accounts.

Simplification of accounts and estimates—working part of Ministry of Local Government and local authorities to consider.

Chapter Eight—Government Contributions to Local Authorities

Basic principles of any Government grant system.

Difficulties in formulating new grant system.

Present grant system will have to be continued, at increased total, for further two years.

Meanwhile—

review of graduated personal tax;

decisions on local government areas, range of services, future of rating;

forward expenditure programme;

total acceptable level of grants.

Discussions on adequacy of road maintenance grants.

Means of ensuring road maintenance grants properly applied.

Chapter Nine—Local Government Staff

Immediate need to fill ten senior financial posts in Ministry of Local Government.

Local authority staff needs.

Intensive search for book-keepers amongst Kenya citizens.

Any staff recruited from overseas should have an aptitude for training.

Joint recruitment of any overseas staff for Ministry and local authorities.

Expansion of local training schemes.

Use of graduates.

Recruitment of 12 juniors for bonded apprenticeship.

Week-end courses in various parts of the country.

Suggestions for a Local Government Staff Commission in relation to appointments—

responsible for all appointments, but would normally delegate all except chief officer and deputy appointments;

advertisement of all chief officer and deputy posts, and short list to be selected by joint committee of Local Government Staff Commission and local authority;

local authority would make final selection from short list.

Details should be discussed with A.L.G.A.K.

In view of need to co-ordinate staffing with other local government problems, separate staff commission, within ambit of Ministry of Local Government, but with independent chairman and members.

Co-ordinating committee of chairmen and secretaries of all staff commissions.

Society for chief officers.

Emphasis on Standing Orders Nos. 21 (extent of duties of members) and 15 (discussion of staff matters).

National rules on staff discipline.

Overlapping between local government and provincial administration will have to continue for the time being.

Possibility of diverting some officers from provincial administration into full-time local government service.

Scope for better working relationship between local government and provincial administration.

Chapter Ten—Allowances to Members

- Mayors' and chairmen's allowances.
- Overnight allowances.
- Actual travelling expenses.
- Relationship of all public bodies' scales of allowances.

Chapter Eleven—National Development Plan

- County committees, including mandatory co-options, to draft proposals, advise as to priorities, and control implementation of development schemes.
- Special Development Authorities for Nairobi and Mombasa. —

Chapter Twelve—Miscellaneous

- Revised issue of Local Government Regulations.
- Special problems of membership, finance, and staffing in northern areas.
- Combination of revenue collection arrangements.
- Adequate representation of minor local authorities in plot allocations. —
- Right of appeal by minor local authorities on planning matters. —
- Roads and water supplies, etc., in settlement areas. —
- Services for minority groups in local government areas.
- Need to expedite approval of by-laws.
- Priorities of this Report.

LIST OF THOSE WHO GAVE EVIDENCE TO THE COMMISSION

Government Ministries and Departments

- Office of the President.
- Kenya Institute of Administration.
- *Office of the Vice-President—Directorate of Personnel.
- Ministry of Finance.
- Ministry of Economic Planning and Development.
- Ministry of Agriculture and Animal Husbandry.
- †Central Agricultural Board.
- Ministry of Health.
- Ministry of Local Government.
- Local Government Staff Commission.
- Ministry of Works—Roads Branch.
- Ministry of Lands and Settlement—
- Director of Settlement.
- Commissioner of Lands.
- †Town Planning Advisor.
- Senior Valuer—Urban.
- Ministry of Housing.
- Central Housing Board.
- Ministry of Natural Resources—
- Chief Conservator of Forests.
- Water Development Department.
- Water Resources Authority.
- Ministry of Co-operative and Social Services.
- Ministry of Education.
- *Public Service Commission of Kenya.
- *Exchequer and Audit Department.

Local Authorities

- Association of Local Government Authorities of Kenya.
- Nairobi City Council.
- Mombasa Municipal Council.
- Kisumu Municipal Council.
- Eldoret Municipal Council.
- Kitale Municipal Council.
- Thika Municipal Council.
- Central Province Local Authorities.
- †Nyeri County Council.
- Nyeri Urban Council.
- Nyandarua County Council.
- Masaku County Council.
- Kitui County Council.
- Embu County Council.
- Meru County Council.
- †Marsabit Council Council.

*Oral evidence only.

†Written evidence only.

Taita-Taveta County Council.
 Kwale County Council.
 Kilifi County Council.
 Malindi and Mambrai Urban Council.
 Tana River County Council.
 Lamu County Council.
 Kipsigis Councils.
 Central Rift County Council.
 Naivasha Area Council.
 Molo Area Council.
 North and South Baringo Area Councils.
 Sirikwa County Council.
 North and South Uasin Gishu Area Councils.
 Nzoja Area Council.
 Tindiret Area Council.
 Marakwet Area Council.
 Mosop Area Council.
 Keiyo Area Council.
 Pokot Area Council.
 Laikipia County Council.
 Olkejuado County Council.
 Kisumu County Council.
 Kisumu Local Councils.
 Gusii County Council.
 †Bosongo Area Council.
 South Nyanza County Council.
 Kakamega County Council.
 Idakho Local Council.
 Marama Local Council.
 Kisa Local Council.
 North Kabras Local Council.
 South Kabras Local Council.
 Bunyore Local Council.
 Bunyala Local Council.
 Isukha Local Council.
 Bungoma County Council.
 West Bukusu Local Council.
 Busia County Council.
 Bukhayo Local Council.

In addition to the evidence given by the local authorities listed, in several cases officers of councils submitted independent evidence.

Provincial Administration

Provincial Commissioner—Coast Province.
 †District Commissioner—Lamu.
 *District Officer—Malindi.
 Provincial Commissioner—Eastern Province.
 District Commissioner—Meru.
 †District Officer I—Embu.

†Written evidence only.

*Oral evidence only.

- Provincial Commissioner—Central Province.
 Provincial Commissioner—Rift Valley Province.
 District Commissioner—Nakuru.
 District Commissioner—Nandi.
 District Commissioner—Kajiado.
 District Commissioner—Narok.
 District Commissioner—Trans Nzoia.
 District Commissioner—Samburu.
 District Commissioner—Kericho.
 District Commissioner—Baringo.
 Provincial Commissioner—Nyanza Province.
 *District Commissioner—Kisii.
 Provincial Commissioner—Western Province.
 *District Commissioner—Kakamega.
 *District Commissioner—Bungoma.
 †Provincial Commissioner—North-Eastern Province.

Organizations and Groups

- Kanu—Eldoret Branch.
 Malindi Branch.
 North Malakisi Branch.
 †Kenya Peoples' Union.
 Kenya Local Government Workers' Union.
 Mombasa Branch.
 Kisumu Branch.
 †Kirinyaga Branch.
 Nairobi Local Government Senior Staff Association.
 Kenya Agricultural Produce Marketing Board.
 Coffee Board of Kenya and Coffee Marketing Board.
 Pyrethrum Marketing Board of Kenya.
 Kenya Sisal Board.
 Kenya National Federation of Co-operatives Ltd.
 Kenya Planters' Co-operative Union Ltd.
 Kenya National Farmers' Union.
 Kenya Coffee Growers' Association.
 Kiambu Association.
 Thika Farmers' Association.
 †Kenya National Council of Social Services.
 Scholars of University College, Nairobi.
 †Councillors attending Kenya-Israel Local Government Seminar, Machakos.
 Students on Advanced Local Government Finance Course, K.I.A.
 †Mombas P.1 Teachers.
 Mount Elgon Citizens.
 K.C.A. Society, Maragoli.
 Butura Welfare Association, Mumias.
 Samia Local Group.
 †Nairobi Traders.

*Oral evidence only.

†Written evidence only.

Individuals

- †Mr. Abubakar bin Ali—Lamu.
†Mr. N. O. Achayo—Staff Side Secretary, Central Whitley Council.
†Mr. R. O. Adero—M.O.W. Supplies Branch.
†Mr. O. A. Araru—Marsabit District Travel and Miraa Agency.
*Mr. E. K. arap Chesorek—Eldoret.
Dr. C. Gertzel—University College, Nairobi.
Mr. G. K. Kariithi—Permanent Secretary, Ministry of Agriculture.
†Hon. S. Omweri Kibwage, M.P.
†Mr. J. Powon Korellach—County Education Officer, Olkejuado.
*Cllr. Latke—Eldoret Municipal Council.
†Sen. J. J. Machio, M.P.
Mr. D. C. MacDonald—K.I.A. Lecturer.
Mr. K. S. M. Matiba—Permanent Secretary, Ministry of Commerce and Industry.
†Rev. Fr. W. Meys—Catholic Mission, Ngong.
Hon. D. C. M. Moss, M.P.—Assistant Minister, Ministry of Power and Communications.
†Mr. R. M. Mureithi—Nairobi.
Chief R. K. Murumba—North Ndal.
Mr. Otundu Murundu—Ministry of Co-operatives and Social Services.
Mr. K. Mustoe—Local Government Financial Officer, Coast Province.
†Mr. S. Mwita—Member of Nyanza P.A.C. for Kuria.
†Cllr. J. W. Njeru—Kerugoya.
Mr. S. Nyaga—K.I.A. Lecturer.
*Mr. A. N. Oloo—Ex Mayor, Eldoret.
†Mr. P. J. A. Omija—Machakos.
†Hon. J. C. N. Osogo, M.P.—Minister for Information and Broadcasting.
†Mr. B. A. Otinga—Maragoli.
†Mr. Dara Edalji Patel—Mombasa.
*Dr. Rana—Mombasa.
†Mr. Veljee Debshe Shah—Nairobi.
Sen. W. Wamalwa, M.P.
Mr. H. A. Wanekeya—Eldoret.

†Written evidence only.

*Oral evidence only.

