



COLONY AND PROTECTORATE  
OF  
KENYA.

---

REPORT  
OF THE  
LOCAL GOVERNMENT COMMISSION  
1927.

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VOL. I.  
NAIROBI AND ITS ENVIRONS.  
MOMBASA AND ITS ENVIRONS.

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PUBLISHED FOR THE GOVERNMENT OF KENYA COLONY  
BY THE CROWN AGENTS FOR THE COLONIES,  
4, MILLBANK, LONDON, S.W. 1.

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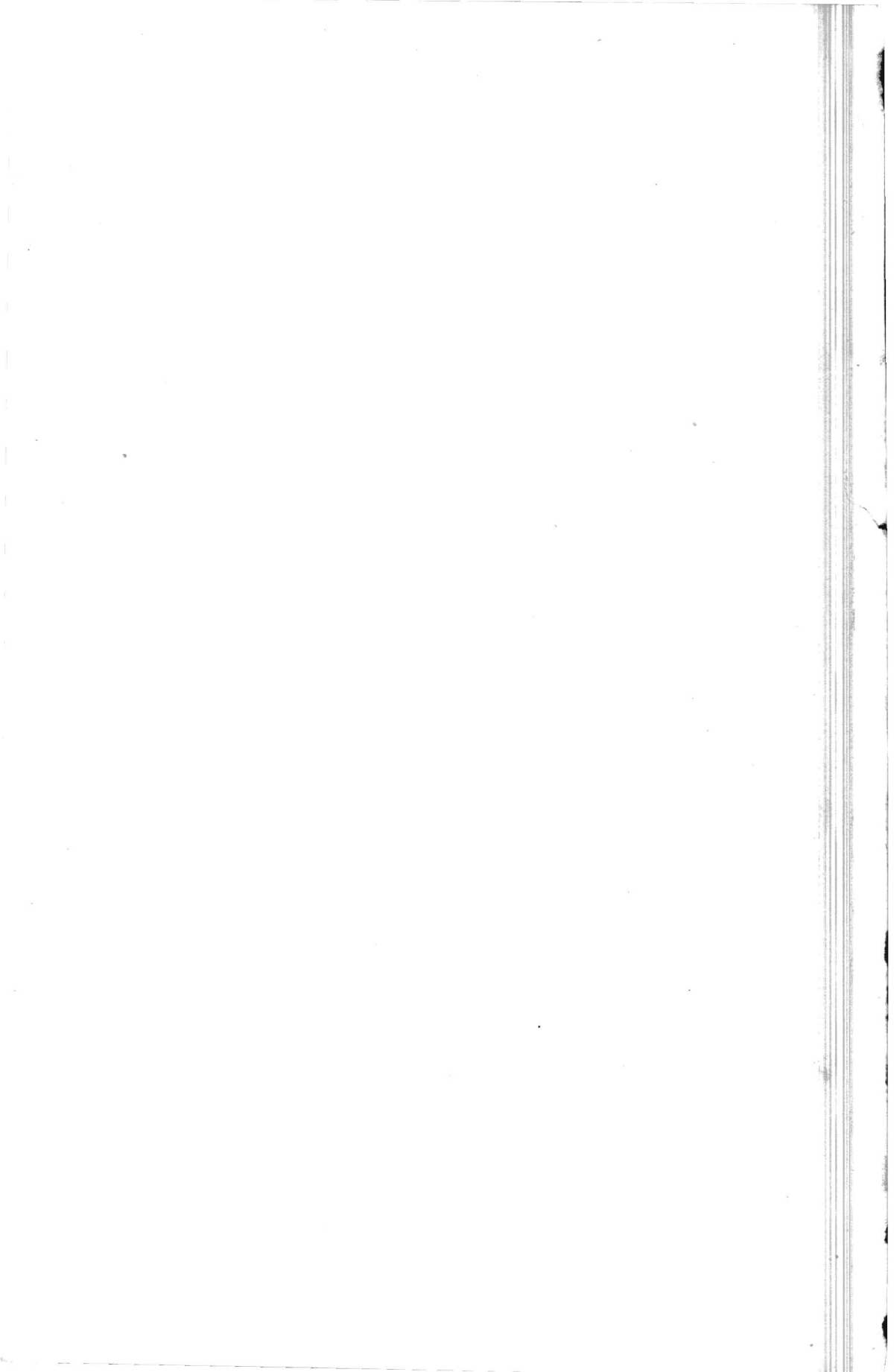
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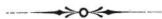
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## SUMMARY OF RECOMMENDATIONS.



## REPORT ON NAIROBI AND ITS ENVIRONS.

- The solution of the municipal problems presented by Nairobi and its Environs—a municipality almost encircled by a number of small, separate and purely residential suburban areas—is, in the opinion of the Commission, unification of the entire area because of the recognised need of the suburbs for some form of municipal government, and of the community of interests existing between them and the present Municipality. Every major municipal work affects the whole area, and economy as well as efficiency must result from unified control and unified staff arrangements. Alternative plans of separate sets of local authorities with a Central Co-ordinating Authority involve a cumbrous and complicated organization and duplication of work. The serious disadvantages of such a system and the difficulty of bringing about unification once separate authorities have been set up have been illustrated in the case of the Cape Peninsula Municipalities. Financial and administrative objections to unification have been answered in municipal experience elsewhere. Enlargement of area is for financial reasons neither impossible—the total resources available cannot be increased merely by sub-dividing them—nor unfair—municipal areas cannot be constructed on a commercial basis and it is to the common interest that each part of the whole area should be properly served. Byelaws can be adjusted to suit conditions in different parts of the municipality. Objections were also raised on the racial ground that in accordance with the policy of non-segregation in townships, laid down in the White Paper of 1923, inclusion of the suburbs in the municipality would mean that Asiatics could acquire land in them. The answer to this objection is that the position is the same whether or not the suburbs are brought within the municipal area in view of the Government's intimation that "areas which, in the interests of health, economy and sound urban organization, are held by the Governor-in-Council to be essential parts of an urban area, should ordinarily be gazetted townships as soon as the above conditions are found to exist." But it is also the case that, notwithstanding the declaration of a suburb as a township, the restrictive covenants in titles will, where they exist, debar the acquisition or occupation of such properties by Asiatics. Such titles apply to all properties in Muthaiga and in the suburban areas in which no form of municipal
- P. 32.  
P. 30.  
P. 32-35.  
P. 32-33.  
P. 30.  
P. 35-37.  
P. 31.  
P. 40-46.  
P. 44.  
P. 40-41.  
P. 41-45.  
P. 45.  
P. 37-40.  
P. 38.  
P. 39.

- government now exists save in the greater portion of Thompson's Estate. The new proposed Municipal area of Nairobi is shown on Plate I.—the area to be added to the present municipality is approximately 15,107 acres of which 5,900 acres is under development for building purposes. The population is 900 Europeans, 311 Indians, 6 Arabs, and 64 others—a total of 1,281. The population of the present Municipality is 2,665 Europeans, 7,741 Indians, 76 Arabs and 1,382 others, a total of 11,864.
- P. 46.  
P. 18.  
P. 49.

## COMPOSITION OF COUNCIL.

- The suburban areas are considered to be entitled to special representation of their interests if they are brought into the Municipality, and the Commission proposes that, in the composition of the Council for the new enlarged area, Muthaiga township, the Westlands and the Kilimani group of suburbs should each have one European member and Eastleigh township should have one Indian member. It recommends the application of the Ward system to the present municipal area and the formation of three European and two Indian wards, the representation to communities granted as a result of the 1924 Nairobi Municipal Commission remaining undisturbed, save that the twelfth member, instead of being a European chosen by the other eleven, should be elected as one of the European members. Definite wards are proposed as a trial. The Commission further recommends the nomination of one Railway representative and one representative of the District Council for the rural area near Nairobi, whose establishment is proposed in the Report on Settled Areas. The new council would thus consist of nine elected Europeans, five elected Indians, one nominated Goan, one Government representative (the Senior Commissioner), one Railway and one District Council representative, total eighteen. Elections should now be on a legal basis, voters' qualifications to be adult suffrage, subject to a £100 property qualification or to a residential qualification plus either occupation of premises of £36 annual value for Europeans and £12 for Indians or earnings of £15 per month for Europeans and £5 per month for Indians; aliens to be admitted as voters but not as candidates, as in New Zealand. Candidates' qualifications to be British nationality, ability to read, write and speak English, subject to the usual disqualifications, term of office to be 3 years with annual retirement of one third, or as near as may be, of the elected members. The increase in European representation is justified on two grounds viz., (1) that it is in principle undesirable that a municipal body should be so constituted as to produce so near a balance of community representation as exists in the present Nairobi Municipal Council, since such a condition tends to strengthen rather than decrease the likelihood of municipal business
- P. 50.  
P. 53-55.  
P. 51.  
P. 64-66.  
P. 51.  
P. 53.  
P. 62.  
P. 63.  
P. 63.  
P. 52.

- P. 53. being discussed from a racial standpoint ; and (2) that racial representation should be decided on the following basis (a) that under the present circumstances it is essential that the European community should be entrusted with the larger share of responsibility for the municipal government of Nairobi, and that the proportion of European representation on the council should be in conformity with the obligations of this trust ; (b) that it is also essential that the Indian community should have such representation on the Council as will enable it to give effective co-operation, and as will ensure full consideration of the special interests of the Indian inhabitants.

#### FINANCIAL PROVISIONS.

- P. 67. The new Municipality must have financial responsibility and independence. The needs of the situation can be met if it is adequately endowed by Government and if it makes adequate use of its powers of taxation. The Commission
- P. 91-93. considers that the way should be left open for the endowment of the council with Crown Lands with certain reservations but that, for a period of not less than 5 years, Government
- P. 91. should agree to make statutory contributions as follows (1)
- P. 88. payment on same basis as private consumers for all services
- P. 77. rendered ; (2) payment on same basis as private landowners
- P. 78. of a contribution in lieu of rates on all Crown interests in land subject to a maximum of 2 per cent. ; (3) payment of half of
- P. 81, 82-85. the cost of the construction and maintenance of Main Roads on an agreed programme of work ; (4) payment of half the revenue received from Motor Licences on motor vehicles habitually kept in the municipality subject to the imposition by the Council of a Municipal Motor Tax, equivalent to 50 per cent. of the Government licence fee ; (5) payment of half of the salaries and allowances of the Medical Officer of Health, and of qualified Sanitary Inspectors, and of expenditure in connection with outbreaks of infectious diseases ; (6) payment of one-third of the salaries of Town Clerk, Town Treasurer and Municipal Engineer ; (7) payment of a diminishing Grant over some period of years, beginning with the sum equal to three-fourths of the Public Health Expenditure for which the Council is to assume responsibility and decreasing at an agreed rate until it disappears ; (8) if an improvement rate is levied, payment of a sum which bears the same proportion to the sum paid by the public in improvement rates as Government's payment in lieu of rates on land bears to the sum paid by the public for rates on land ; provided that the total sum payable by Government shall not exceed the amount realisable from a 2 per cent. rate on site values only. The reason for this recommendation is that in Nairobi and Mombasa Government buildings are less in value than Government land and consequently a rate on land and improvements would

mean a less total payment by Government than would be received from a rate on land only and so would tend to dissuade a council from imposing a rate on improvements, no matter how desirable such a rate might be for the equitable distribution of the rate between private ratepayers. On the other hand, where Government buildings are of very great value, they enhance the dignity and land values of a town and Government should not be expected to pay a contribution in lieu of an improvement rate on their full value.

- P. 73 74. This basis of Government contribution will encourage the Council to increase rates, and further revenue from the public should be obtained by imposing a Refuse Removal fee—£3,000 per annum would be realised from this. Charges for services should be uniform throughout the area and, to assist the Council in recovering its dues, fees for sewerage, sanitary and refuse removal should be made recoverable from owner and occupier jointly. In order to increase the Council's sense of responsibility its estimates should no longer be subject to approval by the Governor-in-Council. This recommendation presumes the appointment to the Central Government's staff of a Local Government Inspector, whose appointment is dealt with in the Report on Central organization.
- P. 85.
- P. 74.
- P. 89-91.

#### RATING SYSTEM.

- P. 97. The Rating System proposed is that in operation in the Transvaal, viz., rating on capital values of land and improvements. The rate is twofold, an original and an additional rate. The original rate must be on Site values and may not exceed  $\frac{1}{2}$  per cent. The additional rate may be on site values or on site values and improvements. In the former case it may not exceed  $1\frac{1}{2}$  per cent. An additional rate on site values and improvements may not be imposed unless an original rate of  $\frac{1}{2}$  per cent. has been imposed on site values; the additional rate may not exceed 1 per cent. of the unimproved value of land, and the rate on improvements may also not exceed the percentage payable as the additional rate on the unimproved value of land. These maxima may be exceeded if sanctioned by the Governor-in-Council at the request of the Municipal Council. The Municipal Council should be empowered to remit or grant exemptions from rates subject to the sanction of the Governor-in-Council. The minimum charge in respect of any rateable property for rates is five shillings. The Council may impose Special Rates to meet extraordinary or abnormal expenditure but must first advertise their intention and, if within 14 days any interested person objects, it may not proceed further until it has the sanction, after enquiry, of the Governor-in-Council. If, within 14 days, the owners of two-thirds of the rateable property object by petition, the project must be abandoned
- P. 110.
- P. 111.

- and may not be re-initiated for six months. Owners of property and not lessees should be liable for rates. As a corollary to the rating of interests, the transfer by agreement of the liability for rates from lessor to lessee should be prohibited, but this provision should not have retrospective effect.
- P. 99. Land used exclusively for agricultural purposes, not being less than ten acres, should be rated at half its agricultural value, on the ground that the use of large areas of land for agricultural purposes does not create the same need for municipal expenditure as does the use of small lots for building purposes. But, so as to prevent land required for building development from being held up for high prices, land which has a building value but continues to be used for agricultural purposes should be rated at its full building value. Provision should be made for the making of a new valuation roll not less than once in every five years, and rate-payers should be entitled to object to the valuation of other property, besides their own. Rates should be recovered by ordinary civil process instead of by the present cumbrous special method. The Valuation Court should be composed of not less than three persons appointed by the Council as in the Transvaal, their decision to be subject to appeal to and final decision by a first class magistrate, who may, however, put points of law to the Supreme Court if he so wishes.
- P. 98.
- P. 97.
- P. 98.

#### RELATIONS BETWEEN RAILWAY, PORT AND MUNICIPAL AUTHORITIES.

- P. 127-128. The Kenya and Uganda Railway and the Port should take advantage of municipal services, *e.g.*, water, conservancy, sewerage, instead of providing their own. As to charges, the general principle should be observed that payments for municipal services should be uniform and sufficient to cover the cost of the services for the entire area served, with not more than a reasonable margin over and above such cost; and that differentiation should not be made according to difference in cost involved in serving particular properties owing to the special circumstances of their character and situation. But in view of the special position of Railway and Port, where it can be clearly shown that there are special circumstances, apart from the mere accident of geographical situation, which have the effect of reducing the cost of a service rendered to Railway and Port premises (as distinct from residential premises occupied by Railway or Port employees), as compared with similar services rendered to other premises, special terms may be made.
- P. 129-130. Plans of proposed new Railway and Port buildings should be sent to Municipal Authorities in order that the latter may have due notice of Railway and Port proposals which may affect the provision of municipal services for

the area concerned, and may satisfy themselves as to the compliance of such plans with the requirements of municipal bye-laws.

- P. 134-135. A contribution in lieu of rates should be made in respect of Crown Land (exclusive of the Railway running-track, sidings and marshalling yards and of harbour works, *i.e.*, deep water berths and buildings erected thereon), used or reserved for Railway and Port purposes, on the same basis as though it were privately owned land. Railway stations and offices should not be exempt, because they require to be served by roads and because of the difficulty of distinguishing between premises required for local operations and premises required for purposes of central organisation and control. As regards improvements, a rate on improvements should normally be paid in respect of Railway and Port improvements, again excluding railway lines and harbour works. But special arrangements for partial exemption of such buildings from any improvement rate should be made where Railway or Port buildings of a specially costly character are erected in order to contribute to the dignity and importance of a town. As regards the special arrangement already proposed for Government in respect of an improvement rate, this should not apply to the Railway and Port: any difference between the sums payable in lieu of rates on site values and in lieu of rates on site values and improvements should be defrayed by Government as part of the contribution granted for the purpose of promoting the success of municipal government.
- P. 136.
- P. 135.
- P. 136.
- P. 137. The Railway should be entitled to nominate a representative on the Nairobi and Mombasa Municipal Council and Board, and the Port should be similarly entitled in respect of the Mombasa Municipal Board. These appointments should secure effective co-operation between municipal bodies, the Port and Railway on a number of questions in which Railway and Port interests are concerned.

#### PUBLIC HEALTH ADMINISTRATION.

- P. 147. The Commission's general proposals as regards Public Health Administration are, (1) that full responsibility for public health administration in its area should be transferred to the Municipal Council of Nairobi, subject to conditions to be laid down by law as to the staff to be maintained, the contributions toward the cost of such staff to be made from central funds (this should be half the salaries and allowances of medical officers of health and qualified sanitary inspectors and half of all expenditure incurred in connection with outbreaks of infectious diseases in its area) and the exercise of powers of supervision by a Central authority; (2) that provision should be made for a similar transfer of responsibility to any Municipal Board where circumstances justify the change—
- P. 71.

such a change should take place forthwith at Mombasa ; (3) that, until a municipal body becomes the Public Health Authority for its area, the district administrative officer should be recognised as the public health authority ; (4) that a change should be made in the position of the Medical Officer of Health (whether a municipal or government officer), so that he may no longer exercise an independent executive authority of his own (except possibly for certain strictly limited purposes, *e.g.*, in connection with infectious diseases), but may be recognised as the responsible adviser on public health questions to the local authority and as its executive officer for the purpose of carrying out inspections and controlling its inspection staff. Powers should be reserved to enable the Central Government to act in default of a Local Authority where the latter neglects its duties.

- P. 146. The evidence received shows clearly the necessity of making a change in the existing system in Nairobi, with the object of clearing away the difficulties and uncertainties of dual control and divided responsibility. In Mombasa, the importance of the work with which the Municipal Board will necessarily be entrusted from the start and the close connection between public health control and the other activities which it will have to undertake, render it expedient that it should at once become the Public Health Authority for its area. Both in Nairobi and Mombasa a Municipal Medical Officer of Health and qualified Sanitary Inspectors should be appointed as soon as possible, all appointments and dismissals to be subject to Government's approval. The probable annual cost of providing Municipal Health Offices in Nairobi and Mombasa, after deducting the cost of half the salaries and allowances of Medical Officers of Health and qualified Sanitary Inspectors and without allowing for office rent, will be approximately £4,300 and £4,000 respectively.
- P. 148.
- P. 149.

#### NATIVE AFFAIRS.

- P. 152. In the matter of Native affairs the Commission recommends the introduction of legislation of a similar character to the Native (Urban areas) Act, 1923, of the Union of South Africa. That Act, *inter alia*, requires an urban authority to make adequate and suitable provision for the needs of natives ordinarily employed within its area and enables the Minister of Native Affairs to compel it to observe this obligation. It enables a local authority to require employers of more than 25 natives or of natives as temporary workers to house them in a location, hostel or elsewhere subject to its approval, and to control the ingress of natives and to exclude natives who are of bad repute or habitually unemployed. The Act also provides that each local authority must open and keep a " Native Revenue Account " into which all revenues from locations, villages, hostels, pass or registration fees, fines

for offences against bye-laws affecting natives, and from sale of beer have to be paid ; and that officers must be appointed to superintend these matters.

- P. 154. The Commission recommends the formal secondment to the municipal service for a definite period of an experienced Administrative Officer to act as Municipal Native Affairs Officer in Nairobi, and that his salary should be shared between the Municipality, Government, and the Native Revenue Account. A Native Advisory Board should also be formed.
- P. 154.
- P. 155. Owing to local conditions at Mombasa, a distinction must be made there as regards compelling natives to live in locations, nor, so long as the Resident Commissioner is Chairman of the Municipal Board, will the appointment of a special Native Affairs Officer be necessary.

#### PROBLEMS OF FUTURE DEVELOPMENT.

- P. 159. In dealing with problems of future development in the proposed Nairobi Municipality, the question of the extent to which municipal works in the suburban areas should be provided for out of general municipal funds requires careful consideration. As regards road development, the Townships (Private Streets) Ordinance, 1924, may have to be utilized, and the statement should be borne in mind which the Upper Nairobi Township and Estates Company Ltd. made to the Commission, viz., that, in the event of areas in which they own the greater part of the land being included in the municipal area, they would be prepared to make the necessary roads and hand them over to the Municipality. The Commission also draws attention to the question of drainage works, which it is of great and urgent importance to the entire area should be undertaken for the purpose of malaria prevention, and recommends that these major works and the expenditure which they involve should be the subject of special arrangements to be made between the Government, the Kenya and Uganda Railway and the Municipal Corporation.
- P. 160.
- P. 162.

#### STAFF AND PROCEDURE.

- P. 165. The Commission makes special reference to the duties of Town Clerk and states its opinion that, in order that the Town Clerk of Nairobi may be in a position adequately to discharge his responsibility, he must be a man of legal training who has a thorough grasp of the principles of municipal administration and has had experience of municipal work in some country where municipal institutions have reached an advanced stage of development. The efficiency of municipal administration must necessarily depend very

- P. 166. largely on the four chief municipal officials, viz., the Town Clerk, Town Treasurer, Municipal Engineer, and Medical Officer of Health. In order to attract suitable candidates, reasonable security of tenure must be offered, and the officers, in the exercise of their duties, must be able to feel secure against unfair attacks to which they may from time to time be exposed. The Commission, therefore, proposes that appointment to and dismissal from these posts shall be subject to Government's approval and that Government should bear one third the cost of the salaries of the first three-named posts.
- P. 167. A set of model Standing Orders and Financial Regulations are appended to this Report which it is hoped will be found useful by local authorities in building up their systems.

## NOTES OF DISSENT.

- P. 177. The Nairobi Report is signed by the additional members, Mr. T. A. Wood and Mr. V. V. Phadke, subject to a note prepared by each. Mr. Wood adds the proviso that the future Local Authority for the enlarged area must take special care in regard to application of regulations and extension of services which are at present performed on an uneconomic basis, and demurs to proposals which would, in his opinion, force owners of property to protect themselves prematurely against future rating proposals to the immediate disadvantage of tenants.
- P. 177. Mr. Phadke agrees, that from the point of view of unified control and supervision by Government, unification is preferable but feels that, unless some strong safeguard is laid down, the demands of the suburban areas for services will be satisfied at the expense of the centre of the town where there is a congested Indian population ; he suggests that the charges in connection with the construction and maintenance of roads be raised out of a separate rate, based on the area of each holding on lines somewhat similar to the present Muthaiga Township Rates. He objects to the proposed composition of the Council for the enlarged area and considers that the balance of representation should be left as it is on the present Municipal Council, either by including voters in the new areas in one or other of the proposed wards, or by decreasing the European or increasing the Indian members allotted to the respective wards for the present municipal area. He considers that the proposed representation of the Railway and of the District Council is neither necessary nor justified.
- P. 178.
- P. 179.

## REPORT ON MOMBASA AND ITS ENVIRONS.

- P. 255. It was generally agreed in Mombasa that a local representative body with power to raise revenue and incur expenditure for certain municipal purposes must now be established ; but opinions varied as to the composition and powers of such a
- P. 257-259. body. European opinion generally preferred a nominated to an elected body, on the ground that in the initial stages the European Community must have the larger share of responsibility for the successful conduct of municipal affairs, and that the leading Europeans, being in the main representatives of overseas firms, would not be allowed by their principals to stand for election, that the various races in Mombasa have not yet developed such a basis of common ideas and aspirations as would enable them to work successfully together as electors, and that the inhabitants of Mombasa would constitute an untried electorate. The Indians urged that, in view of the development of municipal institutions in India and the share taken by Indians in Mombasa in the work of the District Committee, there was no reason why full electoral privileges should not be granted at once. The Arabs also favoured election. The Commission considers that the creation of a common roll is not yet justified and that to attempt to hurry progress towards a common political development would hinder rather than promote co-operation, and recommends community representation. But in order to stimulate active interest it proposes that a part of the members of the local body should be elected. It considers that Government officials should be eligible in their capacity as private citizens to stand for election and that one Goan representative should be nominated. The new body will have a much larger volume of business to transact than the present District Committee, and should therefore develop the Committee system, and consist of a number of members sufficient for the proper working of that system. The Commission proposes a Council of 19 members as a minimum, 23 as a maximum, of whom in the first instance not less than one-third should be elected. As to the representation of communities its proposals are as follows :—On the minimum basis of 19—3 official members, 10 European representatives (5 elected, 5 nominated) ; 4 Indian representatives (3 elected, 1 nominated) ; 1 Arab representative, elected ; 1 Goan representative, nominated. On the maximum basis of 23— an addition of 2 Europeans (1 elected and 1 nominated) and of 2 Indians (both nominated). Any variation intermediate between the minimum and maximum may be adopted. The official members would be the Resident Commissioner, 1 Railway and 1 Port representative. The Chairman should be appointed by the Governor and should be
- P. 259.
- P. 260.
- P. 266.
- P. 261-262.
- P. 264-265.

- the Resident Commissioner. In the exercise of the powers of nomination, the suitability of candidates and the desirability of securing adequate representation of important interests, such as the landowning and commercial interests, should both be taken into account. Reasons in principle for the representation proposed for Europeans have been given in the Nairobi Report and a Government representative is necessary, both to represent native interests and in view of the large contributions to municipal revenue which Government will make. Voters' and Candidates' qualifications and term of office should be the same as proposed in the Nairobi Report. The body should be called the Mombasa Municipal Board, as indicating that Mombasa has not yet reached the full stage of municipal development usually associated with the use of the terms "Council" or "Corporation."
- P. 265. The difference in powers between a Municipal Board and a Municipal Council should be principally in the composition of the Council and its chairmanship, in the matter of financial control—the estimates of a Board being subject to approval—and as regards Public Health Administration—a Board not being automatically a Public Health Local Authority.
- P. 263. The area of jurisdiction recommended for the Mombasa Municipal Board is the present township, *i.e.*, including portions of the mainland as well as the island. This recommendation is based on the imminent need of moving to the mainland such things as refuse destructor, slaughter-house, dairies, cattle sheds, accommodation for casual African labour; the probability of mainland development as soon as the Makupa causeway or Nyalı bridge are completed, and the consequent necessity of control from the outset; the close communication at present existing between mainland and island and consequent public health relationship; and the difficulty of providing for public health and building supervision on the mainland if it is not made part of the Municipal area. The recommendation is, however, subject to a prohibition of rating the mainland except with Government's consent and to differential rating when rating is authorised.
- P. 267-269. One of the powers of the Municipal Board should be to establish and maintain ferries and, if this power is exercised, the terms on which it would take over from Government the existing ferries will be a matter for negotiation.
- P. 265. .
- P. 270-272. .
- P. 277. .
- P. 275-277. .
- P. 277. .
- P. 277. .
- P. 278. .

#### FINANCIAL PROVISIONS.

- P. 280. In 1925 the contribution of Government towards municipal expenditure in Mombasa was approximately £8,749, excluding the water supply. It is shown that, with the incidence of charges on Town Planning and Old Town Improvement Schemes, the Board's immediate expenditure in the future
- P. 293. .

- P. 294. will be £23,152 per annum, and that, as loan charges increase, that expenditure will rise to £35,000, even if no additional expenditure on other works is incurred beyond that spent in 1925. The basis of Government's contributions to the Board should be the same as the Commission has recommended in the case of the Nairobi Council and it is shown that, with the exception of the grants towards the salaries of Town Clerk and Municipal Engineer, the Motor Licence grant and the special diminishing grant, Government's contributions on the proposed basis will be slightly less than its existing obligations. But, in view of Mombasa's many urgent needs arising out of the special character of the town, if important and urgent works, such as sewerage, are beyond the resources of the Board, there is, in the Commission's opinion, good reason why Government should provide further financial assistance than is specifically recommended in the Report. As regards the Main Road contribution, special consideration should be given to Kilindini Road and a grant of half the cost incurred by the Board on this road should be made until road communications are established between Mombasa and the Mainland, so as to link with other roads on the island, when the matter should be reconsidered. As in Nairobi the Commission proposes that fees for conservancy and sewerage and refuse removal should be recoverable from owners and occupiers; that a separate refuse removal charge should be made; and, in the case of Mombasa, that no transfer of any premises should be passed or registered until a clearance certificate is produced from the Town Clerk, certifying that all charges for sewerage, sanitary or refuse removal services and for rates, for a period of three years immediately preceding the date of application for transfer, have been paid.
- P. 287-299.
- P. 296.
- P. 295-296.
- P. 292.
- P. 283.
- P. 284.

#### RATING.

- P. 287. The same Rating Law is proposed for Mombasa as for Nairobi, and as regards Makuti huts special provisions are introduced in the draft Ordinance requiring that such buildings shall be rated as representing separate interests apart from the ownership of the land on which they stand. This is necessary because the majority of these huts are not owned by the owners of the land.

- P. 285. A combined rate on land and improvements is recommended specially for Mombasa because the argument that "the entire exemption of improvements is likely to result in excessive rates on land" is particularly applicable to Mombasa where land values are abnormally high owing to the embargo on development pending the carrying out of the Town Planning Scheme, and where the imposition of rates on vacant land, unless kept at first within narrow limits, might destroy confidence by bringing about too sudden a fall in values,

- P. 286. specially in view of the fact that Arabs and Swahilis of limited resources own a number of small plots. Separate rates should not be charged in order to meet loan charges on improvement schemes, as the incidence of a year's rates should be considered as a whole, but, for purposes of accounting, a portion of a rate might be regarded as having been imposed for a particular purpose and, if rates are properly apportioned between land and improvements, the loan charges on improvement schemes will always be more than covered by the portion of the rate levied upon site values.

RAILWAY AND PORT RELATIONS WITH MUNICIPAL BOARD  
AND PUBLIC HEALTH ADMINISTRATION AND  
NATIVE AFFAIRS.

*See the Nairobi Report.*

WATER SUPPLY.

- P. 303. The Commission proposes that the Mombasa Municipal Board should take over from Government the Mombasa Water Supply as it is essentially a Municipal undertaking and exists mainly for the purpose of supplying water within the municipal area. It recommends that the basis of acquisition by the Board should be purchase on the basis of transfer of the existing capital liabilities subject to the provision by Government of an adequate reserve fund for the renewal of assets. Actual figures cannot be given but the approximate result would be that the Board assumed liability, for the remainder of the loan period, to meet loan charges on £90,000 and Government found some £35,000 for a Renewals Fund.
- P. 305.
- P. 306. As to tariff charges, where water is delivered in small quantities to Government offices, the full rates should be charged instead of reduced rates as at present.

STAFF AND PROCEDURE.

- P. 308-310. The Board must, in the Commission's opinion, appoint a Town Clerk and Municipal Engineer as soon as possible. The remarks concerning the Town Clerk made in the Nairobi Report apply to Mombasa and the carrying out of the Town Planning Scheme, drainage survey, building supervision and recurrent municipal needs render the appointment of a Municipal Engineer essential. No Town Treasurer is yet necessary; this work can be carried out by the Town Clerk with the assistance of a European accountant. The Board should also appoint a Medical Officer of Health as soon as possible. The model Standing Orders and Financial Regulations appended to the Nairobi Report will be a useful guide to the Mombasa Municipal Board.
- P. 311.
- P. 311.

## MINORITY REPORT.

- P. 312. Mr. J. B. Pandya, additional member of the Commission for Mombasa, presented a Minority Report. He regards Mombasa as fit at once for full municipal status, and considers that all members of the body should be elected, preferably on a common roll. The Chairman should be elected by the members. He objects to the distribution of racial representation proposed by the majority of the Commission and disagrees with the reasons which influenced them ; and also dissents from the representation proposed for Railway and Port, and with the possible candidature of Government servants in their private capacity. He proposes a body consisting of 1 nominated official, 10 elected Indians, 3 elected Europeans, 1 elected Arab, and 4 members to be nominated, one of whom should generally be a Goan. If, however, the majority recommendation is accepted, he suggests that the power to levy taxes should be restricted to a four-fifths majority in the Council, in view of the fact that a large portion of taxation would be payable by non-Europeans who would not have, in his view, an adequate voice in the Council. He objects to the arrangements proposed to ensure security of office for the Town Clerk and Municipal Engineer on the ground that they would be able, if so protected, to flout the wishes of the Council.
- P. 313.
- P. 313.
- P. 313-316.
- P. 316.
- P. 317.
- P. 316.
- P. 317.
- P. 317.

N.B.—This summary was prepared by the Secretary after the submission of the Commission's Reports.

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THE COMMISSIONS OF INQUIRY ORDINANCE.

A COMMISSION.

I, EDWARD WILLIAM MACLEAY GRIGG, Knight Commander of the Royal Victorian Order, Companion of the Most Distinguished Order of Saint Michael and Saint George, Companion of the Distinguished Service Order, upon whom His Majesty has conferred the decoration of the Military Cross, Lieutenant-Colonel in His Majesty's Army (retired), Governor and Commander in Chief of the Colony and Protectorate of Kenya, do by virtue and in exercise of the powers conferred upon me by the Commissions of Inquiry Ordinance by this my Commission under my hand appoint :—

The Honourable Mr. Justice Feetham,

The Honourable W. C. Huggard, K.C., LL.D., Attorney General,

The Honourable H. T. Martin, Commissioner of Lands,

And such other person or persons as I may from time to time nominate,

to be Commissioners :

To make recommendations as to the establishment or extension of local Government for the following areas in the Colony :

1. Nairobi and its environs :
2. Mombasa and its environs ;
3. Such settled areas as the Commissioners may consider to be suitable for the establishment of local Government ;

And in particular to advise upon the following matters :—

(i) The constitution of the local governing body or bodies most appropriate to each area ;

(ii) the duties and functions of such bodies ;

(iii) the powers, administrative and financial and otherwise that should be bestowed upon such bodies ;

(iv) the desirability or otherwise of establishing a co-ordinating authority at the headquarters of the Government and the relations of any such body, if created, with the local governing bodies ;

(v) the basis of contribution from the Central Government's funds towards the expenses of the local governing bodies.

AND I DO HEREBY APPOINT the said Mr. Justice Feetham to be Chairman of the said Commissioners ;

AND I DO HEREBY DIRECT that three Commissioners shall form a quorum ;

AND I DO HEREBY APPOINT W. M. Logan, Esq., to be Secretary to the said Commissioners ;

AND I DO HEREBY DIRECT that the Oaths of the said Commissioners shall be made and subscribed before any Resident Magistrate of the Colony ;

AND I DO HEREBY DIRECT that the Inquiry shall be held at such places in the Colony as the Chairman may think fit ;

AND I DO HEREBY DIRECT that the said Inquiry may be held in public or in private, or partly in public and partly in private, at the discretion of the Commissioners ;

AND I DO HEREBY COMMAND all persons whom it may concern to take due notice hereof and give their obedience accordingly.

Given under my hand at Nairobi this 13th day of July, 1926.

(Signed) EDWARD GRIGG,  
Governor.

## THE COMMISSIONS OF INQUIRY ORDINANCE.

(Chapter 25 of the Revised Laws).

With reference to the Local Government Commission (Government Notice No. 297 dated the 13th day of July, 1926) His Excellency the Governor is pleased to nominate

THE HONOURABLE MR. JAGANATH BHAVANISHANKER PANDYA  
and

T. AINSWORTH DICKSON, ESQ., M.C.

to be Commissioners for the following area :—

MOMBASA AND ITS ENVIRONS.

(Signed) W. M. LOGAN,  
for Acting Colonial Secretary.

NAIROBI,

This 22nd day of July, 1926.

## THE COMMISSIONS OF INQUIRY ORDINANCE.

*(Chapter 25 of the Revised Laws).*

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With reference to the Local Government Commission (Government Notice No. 297 dated the 13th day of July, 1926) His Excellency the Governor is pleased to nominate :—

THE HONOURABLE MR. THOMAS ALFRED WOOD, C.M.G., M.B.E.

and

THE HONOURABLE MR. VAMAN VISHNU PHADKE,

to be Commissioners for the following area :—

NAIROBI AND ITS ENVIRONS.

*(Signed)* G. A. S. NORTHCOTE,

*Acting Colonial Secretary*

NAIROBI,

*This 30th day of August, 1926.*

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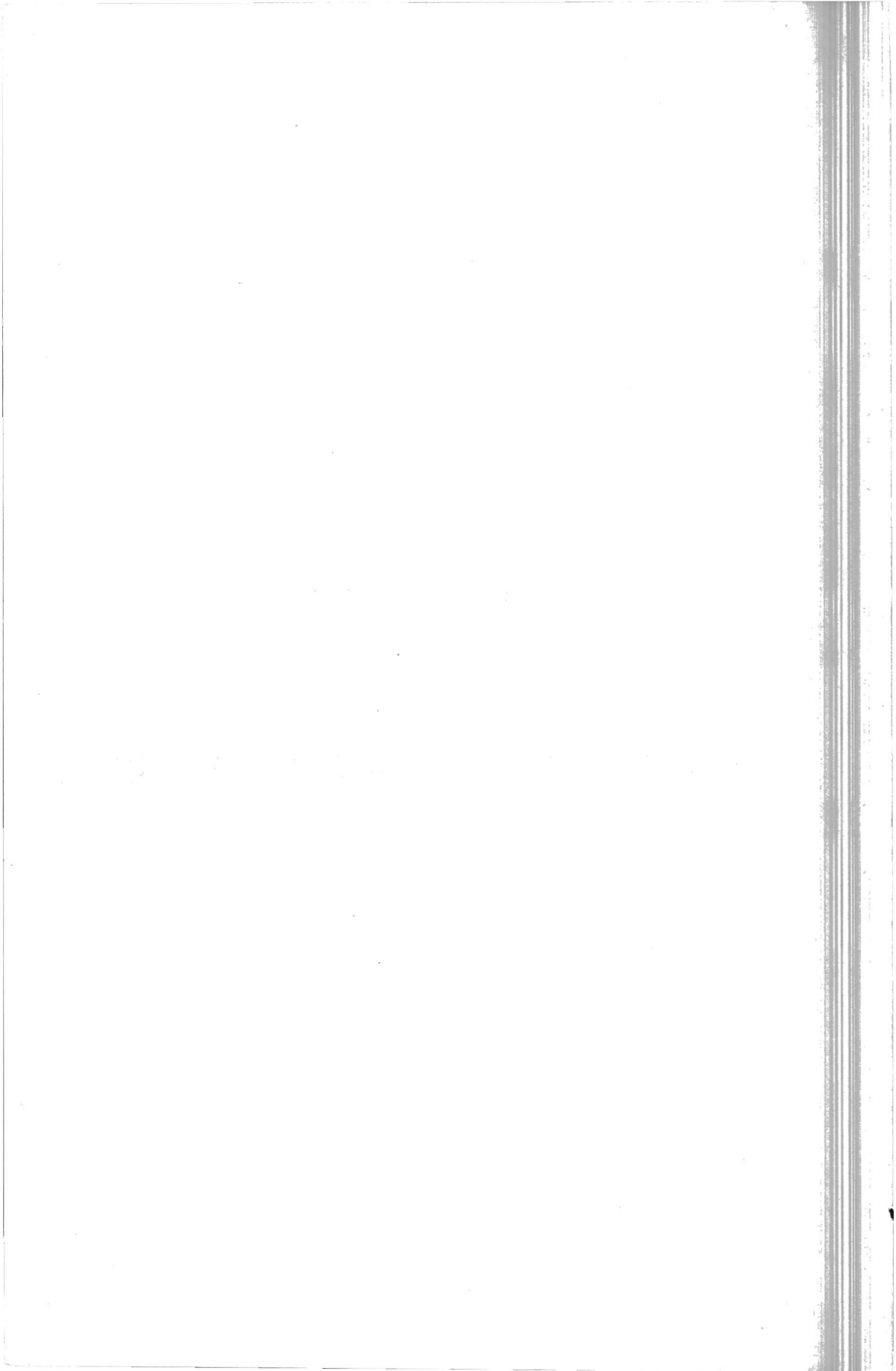
REPORT

ON

NAIROBI AND ITS ENVIRONS.

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To—

EDWARD BRANDIS DENHAM, ESQUIRE,

Companion of the Most Distinguished Order of Saint Michael and  
Saint George, Acting Governor and Commander in Chief of the Colony  
and Protectorate of Kenya.

MAY IT PLEASE YOUR EXCELLENCY,

We beg to submit our report and recommendations as to the  
establishment or extension of Local Government for the area of  
Nairobi and its environs.

We annex to our Report the record taken of the Evidence given to  
us, the Memoranda submitted, and the various Correspondence on  
these matters.



## CHAPTER I.

## INTRODUCTORY.

THE Commission commenced its sittings on September 11th, 1926, in Nairobi, and sat on twenty occasions between that date and October 25th. The witnesses who appeared to give evidence in response to the Commission's invitation included the Mayor, Deputy Mayor, certain other Councillors, the Acting Town Clerk and Municipal Engineer of the Nairobi Municipal Corporation, the present Medical Officer of Health, and the officer who held that post for nearly four years up to August, 1926, the Acting Senior Commissioner of the Ukamba Province, who is a member of the Nairobi Municipal Council, the Acting District Commissioner, who also acts as Municipal Native Affairs Officer, and the General Manager of the Kenya and Uganda Railway. A number of other residents not holding official positions also gave evidence. A complete list of witnesses, who numbered 32 in all, is attached in Appendix I.

The Nairobi Municipal Council did not accept our invitation to give evidence as a Council, but, as appears from the preceding paragraph, its chief officers and most of its members gave evidence as individuals, and such information as we required from time to time was readily placed at our disposal.

The Nairobi Chamber of Commerce intimated that, as the subject of our enquiry was considered to be a political subject, the Chamber could not, according to its constitution, take part in discussing it. The Indian Association sent as its representatives two Indian members of the present Municipal Council. A special invitation was issued to the suburban residents. The Muthaiga Township Committee and the Indian residents of Eastleigh Township sent representatives. While individual views from other suburbs were heard, there was no organised presentation of a case by those suburbs, with the exception of the small Marlborough Estate.

## PART I.—NAIROBI MUNICIPALITY.

2. The town of Nairobi was brought into being in 1899 by the decision of the Uganda Railway Authorities to make their headquarters in the Masai locality of that name, which lies at the western edge of the Athi Plains and marks the first foothills of the Kikuyu Escarpment. The erection of railway workshops and buildings which followed that decision and the settlement of a small community led to the removal from Machakos to Nairobi of the Provincial Headquarters of the Administration and, on April 16th, 1900, regulations were issued under the Order-in-Council of 1897, providing for the establishment of a

Municipal Committee to administer the affairs of the town. A committee was duly appointed in 1900. Following the enactment in 1903 of the East Africa Townships Ordinance, now Chapter 82, Nairobi was, on September 9th of that year, declared a township and defined as "the area comprised within a circle having a radius of  $1\frac{1}{2}$  miles with the Sub-Commissioner's office as centre."

The Municipal Committee was re-constituted on May 19th, 1904, by rules issued under the Townships Ordinance. Its constitution was varied from time to time but, until December 25th, 1917, a Government Officer was Chairman and a majority of its members were officials. The unofficials included representatives of the Indian community. In 1918 (December 2nd), all officials save one, the District Commissioner, were withdrawn, and on July 15th, 1919, the life of the Committee came to an end on the declaration of Nairobi as a Municipality with a Municipal Corporation.

3. *Composition of the Municipal Council.*—The Municipal Corporations Ordinance, Chapter 84, provides in Section 7 (1) that "the Council of any Municipality shall consist of so many Councillors as the Governor shall from time to time by notice in the *Gazette* determine in respect of such Municipality." In 1920 the number of Councillors for the Nairobi Municipality was fixed at 16. From 1919 to 1924, there was no Indian representation on the Municipal Council. Indian representatives had ceased to sit on the Municipal Committee after the end of 1918, owing to the fact that the Indian community was dissatisfied with the proportion of seats offered on the Council. Prior to 1918 their representation had been two in a Council of 15—18. In 1920 they were offered four seats. Between 1920 and 1923 the question of municipal representation became linked with the general political question of Indian status in the Colony.

After the issue of Command Paper No. 1922 of 1923, the Government, in obedience to instructions from the Secretary of State, appointed a Commission in February, 1924, to enquire into and advise on "the present working of the Nairobi Corporation, with special reference to the representation of the different communities on the Council and any other questions which may arise in connection with Municipal Administration." That Commission presented an Interim Report, to which reference is made in Chapter III, on the future composition of the Council, and Government decided to fix the number of the Council at 12, consisting of 5 elected Europeans, 4 nominated Indians, 1 nominated Goan, 1 Government Official (the Senior Commissioner), and a twelfth member, to be chosen by the first 11 members at their first meeting, and nominated by the Governor. A Council on this basis was appointed in April, 1925, for one year, and has since been reappointed for a period expiring in June, 1927. Councillors are elected at informal elections, the details of which we discuss in Chapter III, and are appointed by the Governor.

4. *Area of Municipality.*—The area of the Municipality was defined in 1920. Until that year, the boundaries of Nairobi Township as declared in September, 1903, had, save for a minor alteration in 1914, (by which the stock-yards were brought under Municipal control), remained unchanged. A circular boundary has patent defects, and, though these were recognised, their rectification was bound up with the major question of the Municipal Constitution, and was left for more or less contemporaneous treatment. It was not, therefore, until 1920, after the declaration of Nairobi as a Municipality, that topographical boundaries were defined and the municipal area was extended to take in certain lands which lay outside the circle, the underlying principle being to include all Crown land alienated for residential purposes, and to take the line up to the private estates grouped round Nairobi. A further small amendment of the municipal boundary was made in 1923 in order to include a few plots on the south side of the Ngong Road, on the principle that a municipal boundary line should not run down the middle of a road.

5. *Population.*—During the period 1900—1919, Nairobi had made rapid strides in development and population. The first record of the non-native population was made in 1906, when 642 Europeans and 3,581 Asiatics were found to be living within its borders. By 1921, the numbers had risen to 2,339 Europeans and 8,915 Asiatics—an increase in 15 years of 1,697 Europeans, or 264 per cent., and of 5,334 Asiatics, or 149 per cent. The population, as shown in the 1926 census, has slightly increased in Europeans from 2,339 to 2,665, and in Asiatics from 8,915 to 9,199. There are no precise figures of the African population, but the estimates show an increase from 9,300 in 1906, to 12,000 in 1923, and 18,000 in 1926.

6. *Land Values.*—Land values were first assessed in 1920, when a valuation roll of unimproved site values was compiled by a Mr. Moynagh. This roll was adopted by the Nairobi (Rating of Unimproved Site Values) Ordinance, Chapter 86, enacted in 1921, as the Municipal Roll. The Ordinance contained provisions for the hearing of appeals against valuations. At the time when this Roll was compiled and confirmed, land values were abnormally high in the commercial area of the town. The Roll showed a total value of £2,619,407, which, after certain adjustments had been made, was reduced to £2,610,849, distributed as follows:—

Crown (a) occupied land	..	..	..	£457,865
(b) undeveloped land	..	..	..	426,924
			Total	£884,789
Private owners	..	..	..	1,726,060

As regards Crown occupied lands, it was found in 1924 that the schedule of plots had been inaccurately compiled, and a total value of £331,256 was agreed between Government and the Municipality.

Adjustments and revaluations have since been made to which we refer in detail later, in Chapter IV. The result is that at December 31st, 1926, the total land valuation of Nairobi stood at the reduced figure of £1,978,446, *i.e.*, a decrease of 24.2 per cent. Land in private ownership was reduced in value from £1,726,060 to £1,220,266, *i.e.*, a decrease of 29.3 per cent. Further examination of the values given to occupied Crown lands and of the schedule of plots has led to a total valuation of £647,130 being placed on these lands. Government has, however, not yet accepted this valuation. The above figure of £1,978,446 does not include this re-assessed value of occupied Crown Lands.

7. *Early Land Policy.*—The successful administration of Nairobi has, from the outset, been hampered by the physical features of the town, and the method of land disposal followed in the early days, when the development, which has in fact occurred, was contemplated by none.

The Railway Station and yards lie well out in the plains and, between them and the rising ground to the north-west and south-west, is a flat expanse of some 700 acres, most difficult for sanitation purposes, on part of which has grown up the commercial area, including the Indian Bazaar. Stretched out irregularly in the form of an arc from the Railway Station within the first municipal circle are residential areas of Crown land.

Up to 1902, land grants were made by the railway authorities, and were principally grants of small business plots in the Victoria Street area. In that year the Land Department of the Protectorate Government took over the administration of the land, and, owing to a serious outbreak of plague, the Indian Bazaar, then lying to the north of Victoria Street in what is to-day a portion of the River Road area, was removed to the area between Government Road and Sadler Street through which Bazaar Road runs. The Commissioner—Sir Charles Eliot—took the opportunity of this epidemic to test the possibilities of abandoning the site of the town. Medical opinion supported him, but the difficulties in the way of this plan were too great and the commercial area of the town was condemned to grow up on a site, unsuitable for a large and growing population, which could not be adequately drained without very great expense. Little was done to improve conditions during the next three years, and in September, 1906, the Governor, Sir James Hayes Sadler, reported that “when the rainy season commenced the whole town was practically transformed into a swamp; and an inspection which I made of the Indian and Native quarters revealed an appalling state of things.” While he did not visualise the growth of Nairobi into a large city, he contemplated it as the future capital of the country, and asked for the services of an expert Sanitary Engineer to advise on the drainage and sanitary condition of the town. In the meantime, the

expense of reform measures had been enhanced by the action of Government through the Land Department in making grants of land. Between 1902 and 1904 the policy was to allot business plots at a price and rental fixed by that Department on leases of 25 years, with a provision for extension to 50 and 99 years according to the type of building erected. In the residential areas 5 and 10 acre plots were allotted during this period free of purchase price, on freehold title if beyond one mile from the railway line, and, if within one mile, on 25 years' lease with provision for extension to 50 and 99 years as in the case of commercial plots. In this way considerable sections of the Hill and Parklands areas were disposed of, and also the row of plots on the southern side of the Ngong Road, beyond the present municipal boundary. In the words of one of the witnesses: "When the residential area of Parklands was first opened up most of the people here were people who had been accustomed at home to living in rather confined conditions, and it appealed to them that at least four or five acres round a house would be desirable; they did not realise the impossibility of keeping up these large areas."

Again, grants of plots, varying from two to ten acres each, were made during this period in what is now a valuable part of the commercial area, *e.g.*, the Cross, Campos-Ribeiro, Hasrat and Abdul Hussein Estates. These grants were for 99 years and were free of any conditions regarding development; they have now been subdivided and the sub-plots either sold or leased for the residue of the term. The Bazaar area, on which the bulk of the Asiatic community is crowded, includes these plots in addition to the area west of Government Road already mentioned.

Vested interests were thus created, and the land disposed of was in positions which precluded the alteration of road alignments except on payment of compensation.

8. *Town Planning*.—There was a lack of foresight in the original layout of Nairobi. No attempt was made in the early stages to plan the town on comprehensive lines as an important centre and as the capital of the country. The municipal body has, from time to time, dealt with the problems presented in particular sections of the area. In 1913 Professor Simpson visited Nairobi but, owing to the War and the subsequent abandonment of the policy of segregation, his recommendations were not carried out. During 1926, Sir Herbert Baker, the architect, and Mr. Walton Jameson, Town Engineer of Kimberley, were consulted as to the preparation of a Town Plan, and Government appointed a Town Planning Authority for an area ten miles in radius from Nairobi House, with special instructions, under Section 4 (1) of the Town Planning Ordinance, Chapter 85, to prepare a scheme for a limited strip comprising the present Railway Line from the Station to a point just beyond Ainsworth Bridge and the Nairobi Swamp area. The authority had not, at the date when

this Report was prepared, completed its report to Government, but has informed us that its plans for diverting through traffic off the central roads by creating and constructing a number of alternative routes through the suburbs, for rendering available and developing a site for the proposed Civic Centre, and for certain reclamation works, involve a total capital expenditure of £313,266.

The estimates of road construction costs are founded on a tar-grouted macadam road basis.

9. *Sanitation*.—Closely bound up with Town Planning is the sanitary condition of the town and its environs. The sanitation of Nairobi has formed a continuous problem since its origin. We have recorded the abortive effort made in 1902 to move the town. The next step taken was to obtain professional advice on how to tackle the problem of making the town, situated as it was, habitable. In 1907 a Sanitary Expert, Mr. Bransby Williams, reported on the town, and his report led to the expenditure by Government of over £68,000 on draining surface water from the low-lying part of the town into the Nairobi River and on the construction of Sixth Avenue.

In a Memorandum submitted to us on the conditions in Nairobi in relation to sanitation, the Medical Officer of Health, Dr. R. N. Hunter, stated that "the conditions which prevail, when judged from the point of view of the public health, can be described only as unsatisfactory and, indeed, highly dangerous." The position as indicated in that Memorandum may be summarised as follows:—In the business part of the town, except in the few streets which are served by the water-borne sewerage system, the open drains receive sullage as well as storm water, and also become receptacles for refuse, which renders them to a greater or less degree almost permanently choked. This nuisance will not be abated until a comprehensive sewerage system is installed. Again, the roadside drains throughout the town retain large collections of standing water during the wet season; the beds of the drains are uneven and split into numerous cups and depressions, which are apt to retain pools of waste water in the dry season. There are numerous pits and excavations throughout the town where water stagnates, and the natural swamps in and around the town have still to be dealt with. All these facilities for stagnant water produce ideal breeding places for mosquitoes. In the opinion of the Medical Officer of Health "though the conditions of roadside drains may be improved by employment of an increased and efficient staff, this nuisance will not be abated until a comprehensive sewerage system is an accomplished fact."

The sewerage of the commercial area was begun in 1924, and by the end of 1925, £3,734 had been spent out of a loan of £10,000. The 1926 programme involved a further expenditure of £3,820. The system is partly separate and partly combined storm water drainage and sewerage, and discharges into the Nairobi River below the

municipal "landhis." As the system is increased, it will be necessary to construct outfall works, since at present crude sewage is discharged into the river.

Of sanitary conditions in private houses, particularly in the Bazaar, the Medical Officer of Health writes as follows :—" Attention has been called to the highly insanitary state of the latrines, particularly in the Indian commercial area. Not only with regard to latrines, but in regard to housing accommodation generally it may be stated that a considerable portion of the inhabitants of this area are living under conditions which can only be described as appalling. There are two chief factors to be considered. First are the habits of the people themselves. Inspection of premises in the area under reference is sufficient to demonstrate the fact that a large number of persons living there pay little or no regard to common cleanliness and that the insanitary conditions met with exist by the act, default and sufferance of the occupiers themselves. Choked pipes, drains, collections of garbage, yards, bathrooms, latrines, etc., fouled with excreta, are matters in the hands of the people themselves, and no action by the Medical Officer of Health, even with a staff doubled or trebled, will suffice to deal with such a state of affairs.

" The second factor is the type and nature of the buildings. A large proportion of the buildings in these areas are unquestionably unfit for human habitation. They are for the most part badly built, dilapidated wood and iron structures, ill-lighted and ill-ventilated, rat ridden and impossible to maintain in a clean condition. They are, moreover, grossly overcrowded and the outbuildings, such as kitchens and latrines, are inadequate and insanitary to a degree.

" Although more than five hundred Sanitary Notices have been served in respect to insanitary premises during the current year, it is doubtful if much improvement of a permanent nature has been attained by reason of the fact that the buildings are of a nature and type that do not allow of reconstruction on sanitary lines. It is only by demolition and rebuilding that hygienic conditions can be obtained and this invariably results in a reduction of the original accommodation. Several buildings have been so demolished during the year, but action of this kind invariably meets with strong opposition on the part of the owners concerned, and having regard to the existing over-crowding, it is undesirable to add to it further by demolition of existing buildings until alternative housing is available. As it is with buildings, so it is with the latrines. In spite of opinions expressed to the contrary, it is submitted that mere repairs to these buildings, for the most part dilapidated wood and iron structures, in these areas cannot produce permanent amelioration of the conditions existing, for the reason that in most instances the latrines are in type and structure irreparable. Further, it is but a short time ago that repairs were carried out in the River Road as a result of Sanitary Notices. Their present

condition demonstrates the futility of such attempts. With regard to the uncleanly condition of these buildings, it is to be noted that the private sweeper usually is most inefficient and the suggestion put forward by the Chairman of the Town Planning and Public Health Committee that, in addition to the removal of night soil, the Corporation should employ sweepers to undertake the cleansing of latrines, should be explored and adopted if possible.

“Lastly it may be said that in these places to maintain a clean bucket type latrine is always a matter of difficulty and, unless it is constructed of brick, stone or concrete, it becomes almost an impossibility.”

And also :—“The urgent need for preparing housing and improvement schemes in order to bring about the removal of existing slum areas should be considered by the Corporation and Town Planning Authority. Until some scheme of this nature is carried through, Nairobi will remain in its present insanitary condition.”

We discuss the question of the Public Health Administration in Chapter VII.

Building plans are dealt with primarily by the Municipal Engineer, but are referred to the Medical Officer of Health for his advice on sanitation questions. Development in Nairobi is proceeding rapidly ; whereas in 1919 plans of 93 new buildings were approved, the figure in 1925 rose to 206, and during the first eight months of 1926 was 184. These plans refer both to substantial new buildings and to minor additions or alterations to existing structures ; but in many cases no progress was made with the plans. From 1919 to 1922 an average of 62 substantial buildings were completed. In 1923–1925 the numbers dropped to 37, 33 and 30, but in 1926 rose to 61. The minor building works have varied between 85 in 1922 and 96 in 1925.

A single bucket conservancy system is maintained for the greater portion of the town. The buckets are not cleansed. The Municipal Engineer intimated that the whole system and that of the refuse removal service would shortly be examined with a view to improvement, especially regarding disposal, bucket cleansing and transport.

10. *Water Supply.*—The water supply was bought by the Nairobi Corporation from the Uganda Railway in 1922 (the agreement between the Government, the Railway and the Corporation was not actually signed until August 1923), for £20,000 payable with interest in 20 annual instalments of £1,700, subject to certain special terms for future supply to the Railway. The existing supply is inadequate for present needs, and works are in progress for the purpose of bringing the balance of available water from Kikuyu to Nairobi. A special investigation is also being conducted into the extent of the supply which may be expected to be required during the next thirty years. Water is at present supplied outside the municipal area to Muthaiga,

Westlands, Kabete, and to some of the residents in Thompson's and Kilimani Estates.

11. *Roads.*—The roads in the present municipal area were handed over by Government to the Nairobi Corporation in 1923. The road system in 1926 covered 44 miles, and is classified under four categories :—

Metalled and surface tarred.—

Trunk roads	..	..	·51 miles.
Other „	..	..	1·02 „

Metalled and tar-grouted.—

Trunk roads	..	..	·19 „
Other „	..	..	nil.

Metalled and water-bound.—

Trunk roads	..	..	7·82 „
Other „	..	..	4·46 „

Murram.—

Trunk roads	..	..	..	1·93 „
Other „	..	..	..	28·07 „

When the roads were handed over they were not in a good state of repair, and, in recognition of this fact, Government presented the Corporation with plant valued by the Public Works Department at £2,500. It further agreed to make over each year for expenditure on road services the rents received from alienated Crown lands in Nairobi ; and, in respect of trunk roads, to contribute one-third of the estimated annual cost of maintenance. Crown rents for the first years realised £4,700 gross, and in 1926 rose to £5,106. Rents are collected by the Land Department which makes a charge of 5 per cent. to cover the cost of collection. The trunk road contribution has remained stationary at £780, though the Corporation claims that the total cost of maintenance has risen very considerably over the original figure of £2,340.

The roads of the town had not been constructed for high-speed traffic and, as that type of traffic increased in volume, the expenses of road maintenance grew with alarming rapidity. By the end of 1925 the roads in the town had deteriorated very considerably and the Council put forward a claim to the revenue from motor-licences issued in Nairobi as an additional contribution to its exchequer. Government declined to accept this proposal, but gave an immediate loan of £5,000 for road repairs, which has been converted into a gift. A similar additional contribution of £5,000 was made in respect of 1926 and has also been provided in the Colony's Estimates for 1927.

A number of roads in the Municipal area require to be widened and a large percentage of existing murram roads need to be converted into tarred metal roads. Practically none of the sanitary lanes in the commercial area have ever been made up. These ought to be constructed since, according to Police Regulations, goods have to be

loaded and unloaded in these lanes, which in wet weather are at present impassable,

12. *Finance*.—Municipal revenue is derived from five sources :—

- (1) Fees for services rendered, *e.g.*, Water, Conservancy ;
- (2) Fees from various municipal licences ;
- (3) Miscellaneous receipts ;
- (4) Rates ;
- (5) Government grants.

The first three classes of revenue require no comment at this stage. As regards rates, these are levied on the unimproved value of land. Since 1920, when Mr. Moynagh's valuation was made, to which we have already referred, land values have dropped, especially in the commercial area. There appears to be no legal provision for the revision of the Roll except when the value of particular plots has been altered by special circumstances, but a sub-committee of the Council, in a somewhat informal way, have re-valued privately held land, and also, with the assistance of an officer in the Land Department, Crown land.

We propose to examine the relative figures and the whole basis of Government's contributions to municipal revenues in a later chapter, *vide* Chapter IV.

The rate first fixed for nine months in 1921 at one-quarter per cent. was gradually raised to three-quarters per cent. in 1925 and 1926, and for 1927 it is proposed to fix it at 1 per cent. According to the original valuation of private property, a three-quarter per cent. rate should produce £12,945. On the basis of the revised valuation, a 1 per cent. rate will produce £12,203. Government, on the other hand, instead of a contribution at three-quarter per cent. on £331,256, *viz.*, £2,484, will be required to pay at 1 per cent. on the revised valuation of £647,130, the sum of £6,471.

13. *Native Affairs*.—The native population of the Nairobi municipal area is estimated at 18,000. It is divisible into five classes :—

- (1) Government, Railway and Municipal employees ;
- (2) Domestic servants ;
- (3) Natives in commercial or industrial employment ;
- (4) Natives trading on their own account ; including rickshaw boys ;
- (5) Casual labourers and unemployed.

The Railway and Municipality have "landhis" for their employees. Natives employed by Government as soldiers, policemen, warders, and labourers are housed in Government lines, but Government provides no similar accommodation for its menial staff. Domestic servants are housed on the premises of their employers. The provision of housing accommodation made by the Municipality affects the

third, fourth and fifth classes, and some of the employees of the Government.

The Municipal Corporations Ordinance empowers a Council, with the approval of the Governor, to lay out such locations for Natives as may be deemed desirable; to erect suitable buildings thereon for the occupation of Natives; and to compel all Natives residing in the Municipality, except domestic servants lodged on the premises of their employers, or such as are exempted by the Governor, to reside within these locations. In exercise of these powers, a Native Location was in 1922 prepared at Pumwani, and equipped with a service of water and a water-borne sewerage system. Prior to that year, Natives lived in villages on the Fort Hall Road, called Pangani, Kaburini, Mombasa and Masikini. During 1922, the removal to Pumwani of the inhabitants of the three last named villages was effected, and Pumwani was declared a Native Location with effect from January 1st, 1923. The equipment of the Location with drainage and water services cost the Corporation some £6,000, and it recovers from each plot-holder £3 a year, an inclusive charge for his plot, for water, and other services. There are 261 houses built in the Location, and the inhabitants number 2,016.

The village of Pangani has not yet been moved. It has, however, been declared a Native Location. Water has been laid on, and a number of public latrines with the bucket system have been installed. The same charge of £3 per annum is levied as in Pumwani. There are 316 houses in this Location, and 1,535 residents. No new houses may be erected, as it is intended in due course to move this Location to Pumwani. For this reason, improvements have been concentrated on Pumwani, where the Corporation has built a brick dispensary, office, brewery and beershop. A Hall, built as a War Memorial to Africans, was erected in Pumwani in 1925, and will, it is hoped, become the centre of the social life of the Location. The Roman Catholic Mission has a school there and, alongside the Location, the Church Missionary Society maintains a Church, School and Club. The Acting District Commissioner of Nairobi, who submitted a Memorandum to us in September, remarked, however, that "much remains to be done before the contentment and happiness of the Native population are secured." The Corporation has also recently completed, at a cost of £16,000, the first part of a municipal housing scheme for the accommodation principally of the rickshaw boy and casual labourer types. The full scheme is estimated to cost £50,000.

The immediate superintendence of the Native Location is entrusted to a Superintendent who receives a salary of £300 per annum. The Council has a Native Affairs Committee, of which the Senior Commissioner is chairman. It is also advised by the District Commissioner, Nairobi, who performs certain duties as Municipal Native Affairs Officer. We shall revert to this point in Chapter VIII.

14. *Other Services.*—In addition to these activities, the Corporation maintains a Fire Brigade, and the City Park, and provides the necessary services connected with Refuse Removal, General Pound, Slaughter House, and markets. It is also responsible for the conduct of funerals, and the upkeep of cemeteries.

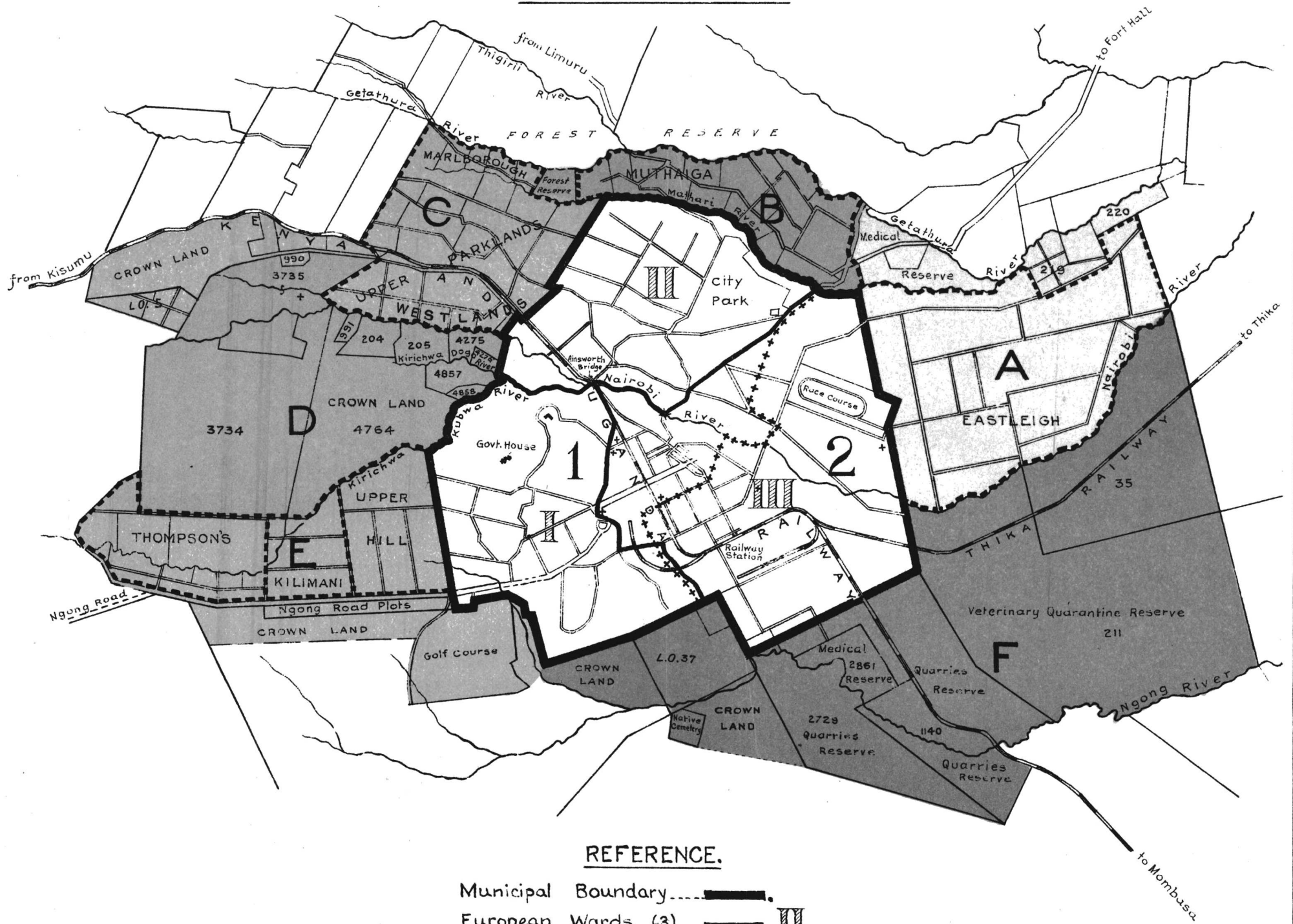
15. *Summary.*—This review of the past history and present conditions of Nairobi will suffice to show that, in spite of the efforts already made to deal with the difficulties of its situation and development, the municipal authority is still confronted with a very formidable task. Large and costly schemes have to be undertaken for the extension of the water supply, for the installation of adequate drainage and sewerage systems, for reclamation works, for the maintenance and improvement of roads, and for Native housing accommodation. There is also the comprehensive programme of development contemplated in the proposals of the Town Planning Authority. These important schemes do not concern the existing municipal area of Nairobi alone—all will have a wider scope. The improvements to be made and the benefits which are expected to result will, in most cases, necessarily extend from the outset to suburbs which have developed outside the existing municipal limits ; and there is not a single one of these schemes which can be properly planned or carried out without taking into account the needs and conditions of the suburban areas.

## PART II.—THE ENVIRONS OF NAIROBI.

Plate I shows the present Municipal area of Nairobi, and round it in a circle broken only on the south a series of private Estates and Farm Holdings, situated as follows :—At the entrance to Nairobi from the Mombasa side, to the right of the Railway, lie farm lands and a Veterinary Quarantine Reserve ; on the left, Quarry and Medical Quarantine Reserves ; and, further to the left, lie the Native Cemetery, a building estate—known as LO. 37—the Golf Course, and the present K.A.R. Reserve. The K.A.R. Reserve reaches to the row of Ngong Road plots and to the road itself, and opposite to it and due north of it is a row of three private estates—Thompson's, Kilimani and Upper Hill Estates. Proceeding northwards, the next suburbs already occupied, or partly occupied, for residential purposes are Westlands and Upper Parklands, but between them and these three estates lie a large tract of Crown Land known as Kileleshwa, at present occupied by Natives, and a number of pieces of land leased for farming or Mission purposes, or standing idle, which can only be described by Land Office numbers. Immediately to the north of Upper Parklands lie the Marlborough Estate and a strip of Forest Reserve. Further to the east on the northern boundary of the municipal area, we come to Muthaiga, and a small Medical Reserve. To the south-east, and on the eastern boundary of the Municipality, is Eastleigh.

# NAIROBI AND ITS ENVIRONS

Scale - 1 Inch to 1 Mile.



## REFERENCE.

- Municipal Boundary.....
- European Wards (3)....., III.
- Indian Wards (2)....., 2.
- Private Townships....., KILIMANI.
- Groups.....(coloured), B.



2. For convenience of reference, we place these suburban areas in the following six groups :—

A.—(a) Eastleigh ; (b) A small piece of Crown Land, partly reserved for medical purposes.

(c) L.O. 219 and 220.—2 farms subdivided into small agricultural holdings and occupied by Asiatics.

(d) L.O. 35.—An agricultural holding subdivided into 8 blocks and occupied by Asiatics.

B.—(a) Muthaiga Township ; (b) Forest Reserve.

C.—(a) Westlands, Upper Parklands, Marlborough Estate ;

(b) A triangle of land between the Kabete Road and the Railway consisting of :—

L.O. 4393. Education Reserve ;  
 „ 4700. Agricultural Reserve ;  
 „ 4394. Leasehold to Agricultural Show Ground ;  
 „ 4949. Crown Land—Agricultural Reserve ;  
 „ 988. „ „ Scott Laboratories ;

(c) A single developed plot L.O. 990 ;

(d) On the south of the Kabete Road, half in Nairobi District and half in Kyambu District, a small building estate of 100 acres held in leasehold by Mr. H. W. Sear, of which 70 acres have been sold.

D.—Various pieces of land lying between the Kabete Road and Group E., viz.,

	Acres.
L.O. 3735. Leasehold to French Mission ..	478
„ 3734. Freehold „ „ ..	1136·5
„ 991. Leasehold to Mr. L. Wilson ..	18
„ 204. „ „ Mr. P. E. Watcham	66·75
„ 205 „ „ Mrs. Blain .. ..	78·75
„ 4275. „ „ Miss Watcham ..	55·8
„ 4580. „ „ Mr. G. Blowers ..	16
„ 4857-4858. Leasehold to Upper Nairobi Township & Estate Co., Ltd. . . .	76
„ 4764. Crown Land, known as Kileleshwa	608
	2533·80

E.—Upper Hill, Kilimani, Thompson's Estates and Ngong Road Plots, a large area of Crown Land of which perhaps 400 acres may be required as a future residential area, Golf Course up to the Mbagathi Road.

F.—East of the Mbagathi Road, some unoccupied Crown Land, L.O. 37 (a private building estate), the Native Cemetery, Medical, Quarry, and Veterinary Reserves.

3. The total region made up of these six groups of suburban areas is approximately 15,107 acres, of which less than one-half (5,900 acres) is under development for building purposes. Its total population, apart from Natives, is 900 Europeans, and 381 Asiatics and other non-Natives. The alienated portions of these areas were originally granted as farm lands, but their position and the growth of Nairobi created a value for purposes of residential estates of which the owners have not been slow to take advantage. In the majority of cases, sub-division has been entirely uncontrolled and Government has reaped no advantage from the enhancement of land values. Prior to 1913, there was no legal control over sub-divisions of freehold property and, since that year, control exists under the Public Health (Building) Ordinance, Chapter 125, only in respect of sub-divisions less than three acres in extent within five miles of a Township or two miles of a railway station or halt. Sub-division of leasehold estates into areas larger than three acres is subject to some degree of control by the Land Department as consent to subdivision is required.

The six groups comprise two declared Townships, viz., Muthaiga and Eastleigh, in which township regulations have been applied. The rest of the areas are subject to no such rules; they form part of the Nairobi Administrative District, with one small exception to which we allude in paragraph 6. The District Commissioner, Nairobi, has on his staff a Superintendent of Suburban Areas, but this Officer devotes the greater part of his time to the affairs of Eastleigh Township. The Medical Officer of Health, Nairobi, is also Medical Officer of Health for Nairobi and Kyambu Districts, but he is unable to devote any appreciable part either of his own time or of that of his staff to work outside the Municipality. Thus these areas have no building or sanitary control. We proceed to examine the position in each of the six groups of suburbs.

4. *Group "A."*—(a) *Eastleigh Township* has an area of 2,003 acres; it comprises an area of 1,000 acres granted in 1903 on leasehold at Shs. 50/- per annum, with an option of freehold, which was exercised in 1904, on payment of Rs. 1/- per acre; and a further area of 1,003 acres, granted in freehold in 1905, at Rs. 1/- per acre. This estate lies on the north-eastern boundary of Nairobi, east of the Race Course, and in part adjoining the Native Location. In 1912, 564 acres of the block were sub-divided by the owners into 3,332 plots and it was discovered that Government had no power to impose any conditions and had to acquiesce in a sub-division which left only 23 acres in 564 for open spaces, allowed for 50 per cent. more plots than are laid out in the whole 6,350 acres of Nairobi, and assumed the construction of 7 miles of frontage streets of a width of only 20 feet

and 14 miles of 10 feet lanes. About 1,500 plots were sold outright to Indians of the artisan class, Goan clerks and Somalis before the owners disposed of their interest to the late Mr. Allidina Visram. In 1924, Government bought in the unsold balance of the estate and now owns 1,580 plots including practically all the larger plots. Up to 1921, these properties were known as Egerton Estate and Nairobi East Township, but on January 15th 1921, were declared to be a Township, and called "Eastleigh." Before this declaration was made, a suggestion that they be incorporated in the Nairobi Municipal area had been rejected by the Nairobi Corporation.

In 1921, Township Rules were issued for the control of streets, buildings, sanitation and health, markets, trades, vehicles, preservation of order, and the raising of a Public Service Rate, and in 1922 and succeeding years rates have been levied in accordance with the Eastleigh Assessment and Rating Rules, 1922. These rates in 1925 produced a revenue of £320. The 1926 population recorded for Eastleigh was 9 Europeans, 292 Indians, 2 Arabs and 42 others (chiefly Goans), a total of 345. There is, however, some doubt whether this is an accurate indication of the numbers who live in Eastleigh, as nearly all the adult males are employed in Nairobi. There are 203 houses, but some of these belong to Somalis who were not enumerated in the Census.

The Superintendent of Suburban Areas gives the following description of the Township :—

"It is a wonder that any people at all are found willing to reside where, out of 63 miles of laid out roads, only  $3\frac{1}{4}$  miles of light roads have been constructed ; where, in spite of the fact that it is within two miles of the heart of Nairobi, access to the capital does not exist, except across a mud track in which ordinary vehicles are bogged in wet weather ; where the inhabitants are dependent for their public water supply upon the Nairobi River, below the sewerage outfall, and upon two public wells which invariably give out in the dry seasons and at times have been found to contain the carcasses of oxen and mules, besides human remains ; where street lighting, conservancy and general cleansing services do not exist ; where, in fact, the only benefits derived from Government supervision and taxation are the prevention of the erection of further undesirable buildings and, in return for the insignificant amount derived from rating, a few hundred yards of road are constructed each year . . . I have never pressed for expenditure upon conservancy services, and in this respect the Health Authorities have agreed with me, inasmuch as no organisation could serve the 200 widely scattered dwellings until such time as reasonable access in the nature of made roads is provided . . . As a temporary measure the owners of new buildings have been compelled to construct pit latrines. These are not satisfactory having regard to the nature of the soil, but it has been the only course possible

under the circumstances . . . I have urged that the two things most necessary to give the town a fair start are access and water. Every available shilling has been spent upon the internal roads, but, where these stop at the town boundary, and are cut off from Nairobi by a quagmire, they are of little use to the inhabitant earning his living in the capital. A sum of £1,200 is required to construct a road of access between the Township and Nairobi. For the more rapid development of the internal roads, I have asked for the modest sum of £2,500 . . . Urgent representations have been made through Government to the Nairobi Corporation with regard to the extension of the Municipal water mains to Eastleigh. Until recently the nature of the distribution of water within their own area has debarred that authority from assisting in this respect, but last year the Town Clerk furnished an estimate of £3,000 for the extension of a main and the provision of standpipes at central points. An application was made for this sum to be included in the Colonial Estimates . . . I am convinced that something akin to a boom in Eastleigh property would occur if the Township were provided with the ordinary amenities, or, in fact, the bare necessities of a Township."

(b) A small piece of Crown Land of 59.3 acres which lies to the north of Eastleigh in the angle between Eastleigh and Muthaiga, a portion of which is used at present for Mental Hospital purposes.

(c) L.O. 219 and 220 consist of 159 acres leasehold sub-divided into a number of small holdings and occupied by Asiatics partly for residential and partly for agricultural purposes.

(d) L.O. 35—1,013 acres—is a leasehold property held by Asiatics on Agricultural lease.

5. *Group "B."*—(a) *Muthaiga* is an estate of 754 acres originally granted on lease in 1902, but converted into freehold in 1904, at Rs. 2/- per acre. It was sold in 1912 for £20 an acre to Major Morrison, who shortly afterwards sub-divided it into 4 to 5 acre plots under no Government control. There are 115 plots and sub-plots, 96 being now in private ownership and comprising an aggregate area of 468 acres. The remaining plots cover an area of 286 acres, including 99 acres in the occupation of Muthaiga Country Club and Golf Club, and an open space of 30 acres.

The estate owner constructed estate roads at his own charges to the amount of Rs. 8,100/-, exclusive of the cost of European supervision and the supply and cartage of road material, of which no records are now available. We had it in evidence from the Chairman of the present Muthaiga Township Committee that "certain plot-holders were formally asked to form a small Committee and make voluntary contributions for the up-keep of these roads" which had been constructed by the estate owner. A Committee was formed and voluntary subscriptions were raised, but the system was unsatisfactory as some

plot-owners stood out and some did not fulfil their promises. Then—to quote from Captain Schwartze's evidence—"Six or seven of us got together . . . because in this country people will not do anything voluntarily ; we therefore approached Government and asked to be made a Township, so as to be able to levy rates for the up-keep of the roads. We were very doubtful which way the advantage lay, because we did not want to become a Township ; we are not a close settlement, plots average 3 or 4 acres, there is no close building ; we are in the country there, and were rather frightened that, if we became a Township, it might lead to rules and regulations like a closely settled town. We eventually decided to risk it and Government agreed to let us become a Township."

By Proclamation No. 42 issued under the Townships Ordinance, Chapter 82, and dated March 25th, 1922, Muthaiga was declared to be a Township, and on the same date, "The Muthaiga Township Rules, 1922" were issued constituting a Township Committee to consist of "7 Europeans, being plot holders within the township" and providing for the employment of a Town Clerk, for building, drainage and sanitary and a variety of other regulations and authorising the imposition on "every owner of a plot or sub-plot of a charge of Sh. 20/- per annum per acre or part acre of plot in respect of the upkeep of streets and roads and the general administration of the Township." These rates, being based on acreage and not on the rateable value of property, were held by the Courts in 1926 to be *ultra vires* the Townships Ordinance, which empowered the Governor-in-Council to fix and levy rates upon land and buildings subject to a proviso that the rates are to be levied upon the assessed value of property. Consequently the Townships (Amendment) Ordinance 1926 (No. XXIII) was enacted in order to regularise the above Muthaiga Township Rules.

The Committee is a body nominated by the Governor who, in practice, accepts the candidates chosen by the ratepayers. The Committee employs the part-time services of a Town Clerk who does the secretarial work and arranges contracts for road maintenance, makes payments and collects revenues. The Township Committee is by virtue of the definition of "local authority" in the Public Health Ordinance (Chapter 124) the local authority for Muthaiga township. In practice, however, it has not been found necessary to take any legal action under the Public Health Ordinance. The Committee itself passes building plans with the assistance of the Medical Officer of Health and Superintendent of Suburban areas, and has the assistance intermittently of a Sanitary Inspector whose preliminary notices on plot-holders have invariably been complied with. The owner of the estate installed a system for the supply of water which was drawn from the same source as the municipal supply. This undertaking was purchased in 1923 by the Municipality. Water is now supplied to

the Muthaiga residents by the Nairobi Corporation on the same scale of charges as applies elsewhere outside the municipal area, *i.e.*, 25 per cent. higher than within it. Every private house is lit with electricity by private arrangement with the East African Power & Lighting Co., Ltd., but the public road lighting system has been discontinued, as the residents considered it unnecessary. The Muthaiga Township Rules 1922, which include building regulations, are administered by the Committee, and each Title Deed contains a covenant by the purchaser to erect only stone houses with tiled roofs. The plots are sufficiently large to render the bucket conservancy system unnecessary. Each plot-holder has either his own septic tank service, or employs a private sweeper. There is no township conservancy system. There are 43 houses in the township.

The non-native population of Muthaiga recorded at the 1926 Census was 170 Europeans, 4 Indians, 3 Arabs, and 15 others, a total of 192 souls, of whom 114 are adult Europeans.

(b) A small patch of Forest Reserve, approximately 44 acres, lying between Muthaiga and Marlborough Estate.

6. *Group "C."*—The third group lies to the north west of Nairobi.

(a) Marlborough, Upper Parklands, and Westlands Estates are together 1,261 acres in extent. Granted originally in 1904 as five separate leasehold blocks of 609, 378, 216, 38, and 20 acres respectively, at annual rentals aggregating Rs. 269/-. they were combined in 1912 under one 99 years' lease to the present holder, the Upper Nairobi Township and Estate Company, Ltd. In 1906, a general consent to transfer was given in respect of a small portion of the block, which is now known as Groganville and Westlands, and in 1912 a general scheme of subdivision into plots, each of which exceeded 3 acres, was prepared by the owners for the remainder of the Estate. The consent of Government to sub-division was a condition of the lease and that consent was withheld until the Company would execute an agreement binding itself to construct and maintain roads and drains. After five years the Company agreed to this condition on an estimate of construction costs of Rs. 67,770 and an annual maintenance charge of Rs. 6,780. In 1918, however, Government decided that this condition should not be insisted on, in view of the fact that general consent to sub-divide the estate had been given in 1906. A revised sub-divisional scheme for the Westlands area was approved in 1922 and, by the device of sub-letting the plots for the residue of the term of the lease, less the last day, at a rental of Shs. 10 per annum, payable to the Company, the Company has rendered inoperative the obligation to pay the minimum rental of Sh. 72 per plot fixed by Government, and instead pays only Shs. 18 per annum for the whole Westlands area. In every case of sub-divisional assignments and sub-leases in the whole of the Upper Parklands Estate, a covenant has been

inserted in the Deed, binding the purchaser to pay a proportionate part of the cost of constructing and maintaining roads and drains. We have, however, had it in evidence from Mr. Tannahill, a Director of this Company, and in a written communication from Mr. Wheelock, who is also a Director of the Company and General Manager of Estates and Investments Ltd., that "in the event of either the Nairobi Municipality or any Urban District Authority deciding to take over any areas in which the Company own the greater portion of the land, the Company would be prepared to make the necessary roads and hand them over to the Municipality or Urban District Authority." We shall refer to this point at a later stage.

*Westlands.*—In the Westlands Estate, the Company has made approximately  $2\frac{1}{2}$  miles of 12 feet roads at a cost of £660 and maintains them at a cost of £100 per annum. The roads shown on the development plan, which have not yet been made, are approximately  $1\frac{1}{3}$  miles in length, and will, in the Company's estimate, cost some £350 to construct to a width of 12 feet. The plots in Westlands Estate vary in size from a quarter to three-quarters of an acre. There are also a number of small plots in the southern portion of Upper Parklands Estate. The dangers of such intensive settlement, where no building nor sanitary control is exercised, are great, and are emphasized by the Superintendent of Suburban Areas in the extracts quoted in the concluding paragraph of this Chapter.

*Upper Parklands.*—In the northern portion of Upper Parklands Estate, few plots have been sold and the present sub-divisions are stated by the Company to be too large to attract purchasers. We understand that a scheme of smaller sub-divisions is under preparation and the Company estimates that the construction of feeder roads would cost £1,500 and that a conservative estimate of the cost of a complete water system would be between £4,000 and £5,000.

To serve the Upper Parklands and Westlands Estates and Muthaiga, the Company, in conjunction with Major Morrison, constructed in 1914 a system of water supply. This system was bought by the Nairobi Corporation in 1923, and the Corporation undertook to afford a good and effective supply for domestic and sanitary purposes to all persons resident upon those estates, at rates not less favourable than the rates from time to time current outside the township of Nairobi. The Westlands section of the scheme was not included in the purchase, but the following special arrangement was made in regard thereto:—

"The Corporation is bound to lay subsidiary mains for serving blocks in Westlands as soon as 50 per cent. of the plots in such blocks have been alienated under agreement of sale, provided the gross revenue derivable in any one quarter will be equivalent to 10 per cent. per annum on the cost of laying such mains. If the Company shall pay for the laying of such mains, the Corporation shall be bound

to reimburse the Company as soon as gross revenue in any one quarter is equivalent to 10 per cent. on the outlay."

The Company has spent on mains the sum of £750, and, in order to extend the supply to feed all the plots, estimates that a sum of £1,100 will be required. In its booklet of Conditions of Sale, the Company states "the Directors guarantee to lay down a water main to serve a block whenever one-half of the plots in such block are purchased."

*Marlborough Estate.*—The Marlborough Estate of 137 acres was transferred by the Company to a Mr. Goss, who has in turn sub-divided and transferred from time to time, but for purposes of valuation and census it has been counted as part of the Westlands and Upper Parklands Estates.

All the plots in these Estates are held by Europeans, and in every Title Deed there is a covenant against sale or transfer to a non-European. There is one public open space of  $9\frac{1}{2}$  acres on the Westlands portion and road reserves of 11 miles, of which  $2\frac{3}{4}$  miles of light roads have been constructed. The population at the 1926 Census was 434 Europeans, 1 Arab, and 2 Others—437. The number of houses erected is 117.

(b) In the same locality, but on the north side of the Kabete Road, between it and the Railway, are 5 plots of land which, with the exception of L.O. 4,394, are unalienated Crown Land held as Education and Agricultural Reserves. They comprise 354.5 acres. L.O. 4,394, of  $30\frac{1}{2}$  acres, has been leased as an Agricultural Show Ground.

(c) Close to the Scott Agricultural Laboratories, but on the south side of the road, is L.O. 990, an isolated plot occupied as a residential property, and

(d) further west, also to the south of the road, and facing L.O. 4,393, is a small building estate, L.O. 5. The western boundary of Nairobi District cuts somewhat arbitrarily through L.O. Nos. 5, and 4,393, the western parts of which consequently come into the Administrative District of Kyambu. There is, so far as we know, no reason why the whole of each of these two plots should not be included in the Nairobi District.

7. *Group "D."*—In this group one property of 16 acres, L.O. 4,580 has a substantial house on it, and it was stated in evidence by Mr. Tannahill that L.O. Nos. 4,857, and 4,858, would be utilised for building purposes by the Upper Nairobi Township and Estate Company, Ltd., as soon as water could be laid on.

Kileleshwa, L.O. No. 4,764, is at present occupied by Natives, whom the administrative authorities propose to remove either to their Native Reserves or to the Native Location in the present municipal area. The remainder of the land in this group is used for agricultural and Mission purposes, and includes the sites of St. Austin's Church, and of the Loreto Convent School for European Girls.

8. *Group "E;"—Upper Hill Estate.*—The Upper Hill Estate was granted in freehold as a Homestead farm in 1903, for Rs.2/- an acre. It was sub-divided in 1911, into 5-acre plots, but out of 144 plots only 32 have been built on. This sub-division was uncontrolled by Government, but the Estate has not attracted purchasers and the owners—The Upper Nairobi Township and Estate Company, Ltd.—have for some time been anxious to cut it up into smaller plots of 1 acre. To do so, they have to obtain the approval of the Board of Health created under the Public Health (Building) Ordinance, Chapter 125, but in 1923 the Board decided that, as, in its opinion, close development is undesirable on this site in the absence of any system of scavenging and night-soil disposal, it would only approve of the proposal as and when Government might be in a position to make arrangements for the sanitation of this and the neighbouring suburban areas. The soil of the estate is black cotton, the land is almost level, and drainage presents a serious difficulty. The pit latrine system is impossible and, if close settlement occurs, either a bucket or a water-borne system is necessary. Neither of these systems is at present available. The Company has recently offered the free gift of all land required for road development in connection with the Greater Nairobi Town Planning Authority's scheme, conditionally on Government approval of its 1-acre sub-divisional scheme. The Estate is 493.2 acres in area.

Its road reserves amount to  $7\frac{1}{2}$  miles on the present layout, but only 1,400 yards of light roads have been constructed.

*Kilimani Estate.*—Kilimani Estate of 287 acres was granted in freehold for Rs.2 an acre in 1904 for a Homestead Farm. There is no available record of when it was sub-divided and no control was exercised over sub-division. All the plots have been sold. There are 83 plots, and 19 acres have been reserved as a public open space. Of the  $4\frac{1}{2}$  miles of road reserves,  $1\frac{1}{4}$  miles of light roads have been constructed by the residents, whose houses number 45. Water mains have been laid on to this Estate by the Nairobi Corporation, and water is supplied at a rate 25 per cent. higher than in the municipal area.

*Thompson's Estate.*—Thompson's Estate of 623 acres was granted in freehold in 1903 at Rs.2 an acre. It fell into the hands of the Administrator General on the death of the owner in 1918, and was sold by auction in blocks of 3 acres and over, thus escaping control under the Public Health (Building) Ordinance, Chapter 125. There are 61 plots and 22 houses on the estate and, out of four miles of road reserve, one mile of light road has been constructed. One witness from this estate complained that, though the shortest route to Nairobi was through Kilimani, the Thompson's Estate residents have for a year been obliged to use the Ngong Road because of the failure of those concerned to maintain the eastern section of the shorter route, which was constructed by voluntary co-operation.

These three estates, considered as one area, but excluding the Ngong Road plots, cover 1,403 acres, have a road reserve of  $14\frac{3}{4}$  miles, of which three miles of light roads have been constructed. They have a population of 287 Europeans, 15 Indians, 5 Others, total 307, and, with the exception of one of the Ngong Road plots, are owned entirely by Europeans. X

In Kilimani and Upper Hill Estates, the plot-holders covenant against disposing of their plots in any way to non-Europeans. In Thompson's Estate, three plots form a block named Burnbrae, which has in turn been sub-divided into 19 plots. Three sub-divisions of this estate have been sold under perpetual leases, as part of the estate, restricting possession to Europeans; one plot has been sold in freehold without restriction. The remainder of Thompson's Estate is held in leasehold unrestricted.

Some plots have been connected up to the Nairobi Water Supply Main, but the majority of the residents depend on rain water tanks, or wells.

On the south of Ngong Road, outside the Nairobi Municipal Area, are 16 freehold plots, and an area of Crown Land.

9. *Group "F." L.O. 37.*—The only private land in this group is L.O. 37. This property, situated on the south of Nairobi and adjoining the Crown Land being used for Railway residential purposes, was granted in 1903 as a farm on a 99 years' lease, at Rs. 55/- per annum. It is now held by The Upper Nairobi Township and Estate Company, Ltd. The Estate runs down to the Plains, and only the northern portion, on the hillside, is suitable for residential purposes. Several endeavours have been made to obtain the Health Board's approval to a sub-divisional plan containing plots of less than three acres, but the proposals for sanitation have hitherto not satisfied the Board. Recently a new plan has been submitted to the Land Department providing for plots of three acres and upwards, a limit the adoption of which places the scheme outside the authority of the Health Board. One plot is now occupied. The road proposed by the Company through this sub-division is estimated to cost £300, and the cost of laying water-mains is put by the Company at £400. The rest of the land in this group consists, as we have said, of various Government Reserves.

10. *Summary.*—With the exception of Groups "D" and "F," building development has already made considerable advances in these suburban areas. Taking them for the moment as a whole, they have a joint population of some 1,300, and over 450 houses. Muthaiga and Eastleigh are under definite administrative supervision and control, but of the rest of the areas the late Medical Officer of Health, Nairobi, Dr. F. J. Carlyle Johnstone, stated that "with the limited health staff available and in the absence of legislation to control development and provision for rating, measures for the improvement of public health and sanitation have been quite impossible. Development in these

areas (*i.e.*, the suburban areas already sub-divided for building purposes) is increasing fairly rapidly ; sanitation in general is far from satisfactory, and public health problems are continually arising. Applications for the further sub-division of property in these areas have been received by the Government on a number of occasions, but the Board of Health has refused to allow further sub-dividing until such time as provision is made for various sanitary services. Owing to existing conditions it is most undesirable to encourage further development until those services have been provided and until development can be controlled by building rules and other necessary bye-laws."

The Superintendent of Suburban Areas reports as follows :—

" The re-subdivision of existing plots is controlled by the Board of Health, but no control is exercised over the erection of buildings, as no building rules have been applied. There are no conservancy or refuse removal services. The most pressing needs are the application of building and house-drainage rules and some method of disposing of the household refuse and night-soil. The urgency of this matter tends to increase in view of the greater number of suburban residents, the increased value of land, resulting in the re-subdivision of plots into small areas and the erection thereon of a type of dwelling inconsistent with sanitary requirements . . . . Rules governing house-drainage are even more urgently required than regulations governing structures above ground. It would be preferable that houses should be erected with no drains whatever, than that they should be served by such installations as have been constructed in connection with many existing houses. In Westlands and neighbourhood, conditions are being created that will call for drastic action at some future time. Water closets have been installed in a number of the houses, the drains of which discharge into soakage pits not more than 15 feet from the main building. This occurs in the case of some of the larger houses, which probably discharge about 200 gallons of bath waste and W.C. effluent per day. It is certain that a great deal of this foul liquid stagnates below the area embraced by the four walls of the house, to the detriment of the health of the occupants."

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## CHAPTER II.

## THE QUESTION OF AREA.

## SEPARATE SUBURBAN AUTHORITIES OR UNIFICATION ?

The general features of the problem involved in providing Municipal Government for the area consisting of the town of Nairobi and its surrounding suburbs will be apparent from the foregoing description, and may now be summarised as follows :—

Development, both inside and outside the municipal limits, has been patchy and irregular. A European population, numbering about 3,600, is distributed over a wide area, extending in some directions as far as four or five miles from the business centre of the town. A much larger Asiatic population, numbering over 8,000, is mainly concentrated within the narrow limits of a small bazaar area, about 88 acres in extent, adjoining the central business area.

The municipal needs of the European population in the residential areas, in respect of works to be done or services to be rendered within these areas, vary according to conditions in the different suburbs, but, generally speaking, the chief needs are roads, water supply, drainage, and general health supervision. The nature of these needs, and the cost of meeting them, are necessarily affected by the extent of the area occupied. The large plots of land attached to most of the houses in the suburban areas, while increasing the length of roads to be constructed and maintained and the distances to be covered by all municipal services, diminish the need for services such as sanitary and refuse removal services, and street lighting. In the business quarter, and in the bazaar, conditions are such as to demand a higher standard of municipal expenditure and a closer form of municipal control, in order to meet ordinary urban requirements. Any system of municipal administration adopted must take into account the different needs of these two contrasted areas, must provide for certain central institutions, such as markets, slaughterhouses, parks and recreation grounds, and cemeteries, which are required in the general interest, and must include within its scope a region of which the total population is small, in comparison to the entire extent of the area over which it is distributed, and in which the cost to be incurred per head of population for the purpose of rendering the municipal services required must, therefore, be considerably higher than in more closely settled areas. The needs of the Native population, numbering probably 18,000, require separate consideration because, except in the case of Railway and Government employees and servants housed on the premises of their employers, provision for their accommodation has to be made in locations or other areas specially assigned for the purpose.

2. The municipal problem thus summarised is not peculiar to Nairobi, but is a familiar problem in the case of towns which have grown up under modern conditions in spacious surroundings. Motor cars, and other means of rapid transport, and telephones, have made it easy for people to live at a distance from their places of business and their shopping centre. The population of a modern town therefore naturally spreads itself over a much wider area than was occupied by a town of earlier days with an equal number of inhabitants. From the point of view of health and the amenities of life there are obvious advantages in the greater freedom which better means of communication confer, and in the substitution of garden suburbs for continuous streets of houses, or rows of semi-detached villas, but a price has to be paid for the benefits of this new form of development in the increased expenditure required for the extension of municipal services over a wide area.

3. Nairobi affords in some respects an extreme example of this modern type of urban and suburban development, and its case is complicated by certain special circumstances among which may be mentioned :—

- (1) The different racial elements which compose the population ;
- (2) The fact that it is a capital city with a number of central Government establishments and a large official element in its population ;
- (3) The large holdings of valuable undeveloped Crown land, much of it in the central parts of the municipal area, which have hitherto been regarded as exempt from any contribution to municipal rates ;
- (4) The lack of public transport facilities, and the large number of private motor cars which involve greater demands for roads and exceptional wear and tear on the road surface.

While there are these special features which have to be taken into account, the chief difficulties of the municipal problem, as presented in Nairobi, differ in degree rather than in kind from those which have to be faced in other towns of modern growth.

4. The fundamental question which we have to consider is whether there should be a single municipal authority with jurisdiction over the entire area covered by Nairobi and its suburbs, or whether there should be a system of separate authorities, each with its own area.

Many of the witnesses resident in or near Nairobi, and especially those who have had bitter experience in the past of the actual difficulties of carrying on the local municipal administration, have, in dealing with this question, been so much concerned, perhaps not unnaturally, with the special circumstances affecting Nairobi, that they have tended to lose sight of the fact that there is nothing abnormal in the character of the problem itself, and that no satisfactory solution can be reached without having due regard to certain general principles

which go to the root of municipal government, and of universal application. The main object of any scheme of municipal government, as that term is understood in countries where British ideas and traditions prevail, should be to enable the inhabitants of a given area to provide for themselves, subject to Government supervision within strictly defined limits, an efficient, economical and progressive administration of their local affairs, which means, in effect, the provision at a minimum cost of local services adequate to existing needs, and the adoption of a policy of gradual development proportionate to increasing requirements.

For the purpose of achieving this object it is essential to secure :—

- (1) The fullest possible measure of co-operation between all the inhabitants whose interests are involved ;
- (2) Machinery which will facilitate a fair distribution of benefits and burdens ; and
- (3) Sufficient financial resources.

It is clear that these essential requirements can best be met in the case of an area which forms a social and economic unit, neither so large nor so densely populated as to be beyond the control of a single body, by the creation of one authority endowed with full powers for the municipal administration of the entire area.

5. The multiplication of separate municipal authorities in an area, the different parts of which have common local needs, such as can only be effectively met by united action, will inevitably encourage the inhabitants of each locality to think more of the separate interests of their particular district than of the common interests of the area as a whole ; will make much heavier demands on the limited number of men who have the necessary time and ability to devote to municipal work ; will involve the risk of constant disputes between rival bodies as to the extent of their powers, the priority of their respective claims for services, and their comparative contributions to the funds required for common expenditure ; will entail division of resources, waste of effort and long delays ; and will finally result in neglect of some services and inefficiency in others, and in a greatly diminished return to the community as a whole for the total expenditure incurred.

Unless, in addition to the separate authorities provided for different parts of the area, the municipal machinery is further elaborated by the establishment of a strong additional over-shadowing authority exercising jurisdiction over the whole, it will be necessary in the last resort to invoke Government intervention for the purpose of settling the inevitable disputes between adjoining areas, but such intervention, even if ultimately effective, involves a negation of the fundamental object of municipal government, as above stated, because it means withdrawing the decision of the question at issue from the inhabitants of the areas concerned, and subjecting their municipal affairs to the

control of an outside authority. The following quotation taken from a work on Local Government which is recognized as authoritative, emphasizes the importance of avoiding unnecessary multiplication of authorities :—

“ If Local Government is to be carried on by unpaid representative Councils, every obstacle to the co-operation of the best men in the locality should be removed. Conflicts of jurisdiction, complexities of area, confusions of law, and multiplications of authority should be reduced to a minimum.”\*

This comment is made in reference to conditions of local government as existing in England prior to the reforms embodied in the Local Government Act, 1888, which established County Councils.

6. Reference may also be made in this connection to the Report of the Commission appointed in 1902, by the Governor of the Colony of the Cape of Good Hope, to report upon Cape Peninsula Municipalities. That Commission found in existence in the Cape Peninsula eight municipalities contiguous to each other, constituting a total area of 21,726 acres. After referring in its Report to the difficulties of administering the area so constituted, as disclosed in the evidence, the Commission stated : para. 72—“ The right solution (of these difficulties) ought to be the common aim, concern and interest of the ratepayers as a whole ; and the solution is most likely to be arrived at by discussions in a single chamber in which the representatives of those ratepayers customarily and by right assemble. No one of these municipalities, and no smaller group than that of the whole of them, can, in respect of economy and efficiency, isolate itself for the purpose of carrying out any adequate scheme of water supply, drainage or sewerage. The control of the necessary works ought to be left in the hands of those who are directly responsible for municipal administration, and can safely so be left ; but, until the Metropolitan municipalities are united under one governing body, the necessary impulse for the inception of the important enterprises within their area is not likely to be forthcoming, the co-operation and energy which are vital elements of success will be unattainable and the interests of economy will be overlooked.”

The Report recommended that the eight municipalities should be unified into one municipality, and that a certain additional area should be included. Of the eight municipalities concerned, six had come into existence as separate local government units during the period 1880 to 1890. Unification had been recommended by a Select Committee of the Cape House of Assembly as early as 1893. In spite of the strong case made for unification in the Commission's Report, and the grave defects revealed in the existing system of divided municipal administration, the difficulties in the way of unification were found to be so great, owing to the conflicting views and interests of the various localities concerned,

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\* “ Local Government in England ” (Redlich & Hirst), Vol. I., page 194.

that it was not till 1913, ten years after the date of the Commission's Report, and twenty years after the date of the recommendations made by the Select Committee, that unification in respect of the greater part of the area referred to was finally accomplished.

The case of the Cape Peninsula illustrates the difficulties and delays which may be experienced in bringing about unification for a given area once a number of separate authorities have been set up, even though the case in favour of unification may be overwhelming. A bad system of local government based on improper division of areas, and unnecessary multiplication of authorities may thus persist and still be very difficult to uproot, long after its defects have been recognised and condemned.

7. A survey of the evidence given on the subject of Nairobi and its suburbs shows that all witnesses are practically agreed in recognizing :—

(1) the need of the entire area, including the existing suburbs, for some form of municipal government, and

(2) the community of interests between the business and commercial area in the centre of Nairobi and the surrounding residential suburbs.

In view of what has already been said in Chapter I., it is unnecessary to elaborate the first point further at this stage.

On the question of community of interest, it is only necessary to draw attention to the following facts :—

(1) The suburbs above described have the common characteristic that they are residential areas where people who work in Nairobi have their homes ; with the exception of some dairies, and a brick works and laundries, the suburbs outside Nairobi have no industrial activities of their own. In this respect there is no distinction to be drawn between the suburb of Parklands, which is already inside the municipal area, and other residential suburbs which are at present outside. Nairobi is also the shopping centre from which suburban residents draw most of their household supplies ; there is one shop in Westlands, and there are several small Indian shops in Eastleigh, but there are no shops in the other suburbs. The majority of the adult residents of the suburbs spend their days in the offices and shops of Nairobi, while the remainder find it necessary to make frequent visits to the town for shopping and business purposes. These suburban areas, which provide homes for a considerable part of the population of Nairobi, cannot therefore be regarded as independent entities ; they are purely residential areas surrounding a single business centre, and form, with the town itself, socially and economically, a single urban unit.

(2) The suburban residents depend very largely on municipal services performed and institutions provided by the Corporation

in the central part of the town. The following illustrations may be given of the dependence of the suburbs on services provided within the existing municipal area :—

*Public Health.*—Measures taken for the purpose of protecting the public health in the centre of the town closely affect suburban residents in a variety of ways. If health conditions are bad in the business and shopping centre, all who spend their days in Nairobi are liable to suffer. Inspection of meat, and other articles of food, is for the benefit of all who draw their food supplies from Nairobi. Drainage schemes required for the protection of Nairobi against malaria directly concern the suburbs, which in some cases border on the streams and swamps which are a source of danger to Nairobi, and also have similar mosquito breeding grounds on the upper waters of the same streams within their own areas. The fact that Government has hitherto provided at its own cost the Medical Officer of Health and Sanitary Inspectors, who are charged with the duty of safeguarding the health of Nairobi and its suburbs, and that the Corporation has thus been relieved of a portion of its natural responsibilities, has tended to disguise the extent to which the interests of the suburban residents are involved in the municipal administration of Nairobi, of which Public Health supervision should, according to normal practice, form an important branch.

*Water Supply.*—The Nairobi Corporation already provides a water supply for a considerable portion of the suburban area outside municipal limits, and everyone recognizes the necessity of having a single system of water supply for the entire urban and suburban area.

*Roads.*—The most important roads for suburban residents are the roads which give access to the centre of Nairobi, and these roads of access, which are traversed daily by suburban residents, fall for the greater part of their length within the municipal limits, and are maintained by the Nairobi Corporation, with the assistance, in the case of main roads, of a special Government grant. In order to provide a satisfactory system of main and inter-suburban roads, it is essential to consider the needs of the area as a whole, and to adopt a definite and comprehensive scheme of road development.

*Native Housing.*—The suburbs make no provision for the housing of Natives, other than those domestic servants who are housed in their employers' premises, and whatever general provision is made for securing that the Native population of the area is housed under satisfactory conditions has to be made by the local authority which controls the municipal area.

There are a number of other institutions and services provided by the Corporation within the municipal area for the common benefit of the whole neighbourhood, in the efficient maintenance of which

suburban residents outside the municipal area have almost as direct an interest as those who actually reside or have property within the municipal limits—*e.g.*, Markets, Slaughter-houses, Parks, Cemeteries, Fire Brigade. As the activities of the Corporation develop, and it comes to exercise more of the powers entrusted to it under the Municipal Corporations Ordinance, this list is likely to grow much longer.

Suburban residents outside the area get the benefit of these various services and institutions provided within the area without making any contribution in respect of their suburban properties towards the expenditure incurred, and such expenditure, so far as not covered by fees charged for the particular service, or by special Government grants, has to be met out of the rates charged on property within the municipal area. The fact that some suburban residents are also owners of property, or occupy business premises, within the municipal area, and thus contribute directly or indirectly to municipal rates in respect of such property or premises, does not affect the general position, because such contributions, being only in respect of property within the area, have no relation to the benefits which accrue to the persons concerned in respect of the premises occupied by them outside the area, or to the cost of making or maintaining roads required to serve those premises.

8. The case of Eastleigh requires special mention as an illustration of the neglect of common interests which results from the exclusion of suburbs from the municipal area to which they naturally belong.

In order to relieve the overcrowding in the Bazaar it is essential that large numbers of the Asiatic population should find accommodation elsewhere. When Eastleigh was laid out, in 1913, a large number of Asiatics acquired plots in the township and, during the years that followed, a good many houses were built. By 1920, there were 250 houses in Eastleigh and 17 more were in course of erection. In August of that year the estimated population was 55 Europeans, 550 Indians, 120 Goans and 400 Somalis. But no road was made leading from the town to Eastleigh and, owing to the nature of the soil of part of the intervening area, communication between the town and Eastleigh was apt to become almost impossible in wet weather; further, no provision was made for giving Eastleigh a proper water supply and the inhabitants had to rely on drawing their water from shallow wells, which could not be depended upon in dry weather and were liable to constant pollution. It is remarkable that development in Eastleigh should have gone so far in spite of such bad conditions but, when a time of depression came in 1921, these conditions produced their natural result. There was an exodus from Eastleigh of people who were eager to take advantage of the cheap housing accommodation which became available in the Bazaar, owing to many Indian artisans having left the country. Eastleigh received a serious set-back; building ceased, many of the

houses already built were vacated and pulled down, and most of the population which had sought refuge in Eastleigh returned to the Bazaar and remained there, so as to aggravate once more the overcrowded conditions of the Bazaar when better times came and the population once more increased. The construction of the roads leading from the town to Eastleigh and the provision of an adequate water supply were matters of common interest to the town and Eastleigh ; it would have been greatly to the advantage of the town from the public health point of view that an outlet should be provided for a portion of the overcrowded population of the Bazaar area, and it would have been to the advantage of the persons who had purchased plots in Eastleigh that they should be enabled to develop and occupy their properties. But the roads have never been made, owing to the fact that there was no authority which was entrusted with control of the development of the whole area, including both the town and Eastleigh ; the overcrowded conditions in the Bazaar continue, and the plot-holders of Eastleigh have suffered financial loss, and have been unable to secure better accommodation for themselves and their families by using the sites which they purchased.

No doubt, even if Eastleigh had been included in the municipal area, financial difficulty would, under the conditions which actually prevailed, have been experienced in meeting its needs as regards roads and water supply ; but, had there been a single authority, responsible for the whole area, that authority would have been stimulated to find some means of overcoming this difficulty, and would have been in a position to press its claim on the Government for any necessary financial assistance.

9. Once these two cardinal facts, the need for some form of Municipal Government in the suburban areas, and the community of interests existing between the suburbs and the existing municipal area, are recognised, there is a strong *prima facie* case for uniting the whole area under one authority but, while some witnesses have frankly recognised the position and have urged the inclusion of the suburbs in the municipal area, many others, impressed by the difficulties which they believed to bar the adoption of this solution, have suggested plans for meeting the needs of the suburbs for Municipal Government, and recognising this community of interest, without going so far as to include the whole area under the jurisdiction of a single municipal authority.

10. It is unnecessary to describe in detail all the various plans which have been proposed, but the different types of suggestions made are summarized below. The objections on general grounds to all these suggestions which involve the creation of a number of authorities instead of a single authority for the area of Nairobi and its suburbs have already been stated, but notes, included in the following summary, mention certain special objections to the various schemes described.

*I. Nairobi Corporation to be given certain limited powers of administration and taxation in the suburbs, and suburban residents to be allowed to vote in elections held for members of the Nairobi Corporation.*

This proposal was made by the Mayor of Nairobi, Mr. Riddell, who said he was opposed to any extension of municipal boundaries ; but adoption of his proposal would in fact involve an extension of municipal boundaries, subject to certain special conditions being applied to the suburban areas. An area cannot be at the same time both inside and outside the municipal boundaries and, if the residents of a suburban area are taxed, and are subject to administrative control by the municipal body which controls the centre of the town, and also have votes for its members, the result of such an arrangement is that the suburban area concerned becomes for all essential purposes a part of the municipal area.

*II. Each suburb or group of suburbs to be given its own local authority in the shape of a Township Committee, or similar body, and the task of co-ordinating the activities of these different local authorities, and of the Corporation itself, to be left to the Government, or some Officer appointed by the Government.*

Such an arrangement as this would involve constant Government interference, because the number of matters in which all areas would be jointly interested would be so great that the Government would constantly be called upon to settle questions arising between them.

*III. Each suburb or group of suburbs to have its own local authority, and the Nairobi Corporation to exercise control in certain matters of common interest and to have limited taxation authority over suburban areas.*

Under this arrangement, the resident in the suburban area would have to pay taxes to two local authorities and his position, in relation to the matters controlled and the taxes levied by the Nairobi Corporation in the suburban areas, would be that he would have his affairs managed and his taxes levied by an authority which he had no share in electing.

*IV. The Nairobi Corporation to have no control over the suburban areas, but one local authority to be created for the whole of the suburban areas, which would constitute a single Urban District, such authority to be styled an "Urban District Council."*

The suggested "Urban District" would almost encircle the existing municipal area, but there would be a break in the circle on the southern side. This plan would bring together areas as widely separated, and as distinct in character, as Muthaiga, Thompson's Estate, and Eastleigh. Such areas all have common interests which unite them with the centre of the town, but there is practically no community of interests between the areas themselves. Some system of co-ordinating the activities of the Nairobi Corporation with the

suggested Urban District Council would obviously be required. Various suggestions on this point were made ; one suggestion was to the effect that there should be joint Boards, on which both the Corporation and the Urban District Council should be represented, for the purpose of enabling them to agree on a common policy with regard to roads, town planning, and public health and sanitation ; and that, in the event of this machinery failing to produce agreement, the Government should settle the question in dispute. Under this scheme, members of the two authorities would, in addition to attending meetings of their own councils and committees, be called upon to attend meetings of the proposed Joint Boards. The machinery of Joint Boards would inevitably involve duplication of work, and could not be relied upon to produce agreement.

*V. Either separate authorities for each suburb, or groups of suburbs, or a single authority for the whole suburban area, and a superior authority consisting of representatives both of Nairobi Corporation and the suburban authorities, for the purpose of controlling matters of common interest.*

It was suggested that the matters which should be controlled by such a superior authority would necessarily include water, main roads, town planning, and possibly also public health and sanitation. The superior authority would have to exercise taxation powers for the purpose of the services under its control. Each area would therefore be subject to taxation, both by its own local authority and by the superior authority. The creation of such a superior authority would lower the status of the Nairobi Corporation and the suburban bodies, and thus tend to deter competent men from service on such bodies ; would duplicate machinery ; and would involve constant difficulty in adjusting the rival claims of different authorities with jurisdiction over the same area.

II. The reasons advanced by witnesses in favour of adopting the cumbrous and complicated plans briefly described above, involving the creation of a number of authorities for separate areas, together with the provision of machinery for securing co-ordination of their activities in matters of common concern, in preference to the simpler plan of creating one authority for the entire area, fall under three main heads :—

- I. Racial.
- II. Financial.
- III. Administrative.

I. *Racial*.—With the exception of Eastleigh, the existing suburbs are residential areas which are occupied only by Europeans, and their domestic servants, and the theory has been advanced that, if the suburbs are included in the municipal area, Asiatics will, under the terms of the White Paper of July, 1923 (Command Paper 1922 of 1923),

automatically obtain the right to acquire property, and to occupy premises, in these European suburbs.

This theory is based on the view that the passage in the White Paper on the subject of segregation (paragraph 7, Part II.), in which it is stated that :—

“ they (*i.e.*, His Majesty’s Government) have therefore decided that the policy of segregation as between Europeans and Asiatics in the townships must be abandoned,”

refers only to townships which have been declared to be such under the Townships Ordinance and that therefore, while the policy of segregation can be maintained in any area which has not yet been declared a statutory township, the moment an area is declared to be, or is included within, a township under the Ordinance, this segregation automatically ceases to exist. The validity of this theory, and of the objection to the inclusion of the existing suburbs in the municipal area of Nairobi in support of which it has been advanced, depends (1) on the interpretation to be placed on the term “ township,” as used in the above quoted passage of the White Paper, and the policy to be applied in future, in the light of such interpretation, with regard to the declaration of areas as townships, and (2) on the position with regard to restrictive covenants in the various suburbs concerned.

(1) The question raised with regard to the interpretation to be put upon the term “ township ” has been placed before the Government, and the Commission has received from the Acting Colonial Secretary the following statement of the views of the Government :—

“ The term ‘ township ’ as used in the White Paper is taken to mean a township already gazetted, or which may in future be gazetted, under the Townships Ordinance. It is the view of Government, however, that areas which, in the interests of health, economy and sound urban organization, are held by the Governor in Council to be essential parts of an Urban area, should ordinarily be gazetted townships as soon as the above conditions are found to exist.”

We understand the position to be, therefore, that, while the Government adopts the view that the term ‘ township ’ as used in the White Paper only applies to a township legally constituted as such, the Government nevertheless considers that the power to create new townships should be exercised, as circumstances demand, from time to time, in respect of areas which are held, for the reasons indicated, to be essential parts of an urban area, and therefore to need to be brought under municipal government.

As already stated, the witnesses whose evidence we have heard have been almost unanimous in recognising the need of the existing suburbs for some form of municipal government. The conditions justifying this view have been stated in the preceding Chapter. If this view is correct, it will be necessary, in accordance with the above statement of the Government’s view, to declare the existing suburbs as

townships in order to make some provision for their municipal needs, whether or not they are actually included in the Nairobi municipal area.

(2) The question as to the existence of restrictive covenants in the titles of plots in the suburbs concerned is of importance, because, notwithstanding the declaration of any area as a township, such covenants, where included in titles issued on the sale or lease of land by private persons, will still hold good in the absence of legislation to the contrary. On this point, the following extract from a despatch of the Secretary of State (Kenya No. 507), on this subject, dated 22nd May, 1924, may be quoted:—

“ In the case of leases or sales by private persons, no question arises, since there is no legislation in contemplation to alter the conditions on which the leases are held, or to compel the lessors or vendors to waive the covenants as to transfer.”

We have inquired as to the position with regard to the existence of restrictive covenants in the titles of properties in the suburbs concerned. We are informed that restrictions against acquisition or occupation by Asiatics exist in the titles under which properties are held in the case of all the suburbs in question other than Eastleigh, with the exception of that portion of Thompson's Estate not included in Burnbrae. Muthaiga, it may be noted, has already been declared a township, and affords one instance of the position of a suburb declared a township in which such restrictive covenants apply.

It appears, therefore, that, notwithstanding the declaration of suburbs as townships, the restrictive covenants which apply to all properties in such suburbs, other than properties in part of Thompson's Estate, will debar the acquisition or occupation of any such properties by Asiatics. In the case of that portion of Thompson's Estate to which no such restrictive covenants apply, the same difficulty will arise, whether the area is declared a township, or part of a township, separate from Nairobi, and remains distinct from Nairobi, or whether it is included in Nairobi.

In view of the character and layout of the portion of Thompson's Estate referred to, and of the situation of that area in relation to the adjoining residential areas, the principle stated in the communication from the Government quoted above must, we think, be held to involve the gazetting of that area as a township at no distant date, and there would be an obvious objection to delaying such declaration in respect of that area, once the adjacent areas, to the east, have been declared townships, and included in the Nairobi municipal area.

Objection has also been made on the part of some suburban residents to suburbs which are exclusively European being brought under the jurisdiction of an authority which includes Asiatic members. The question of representation is dealt with in Chapter III. It is sufficient to say here that Asiatics are entitled to representation on

the Nairobi Corporation, and would also be entitled to representation on whatever municipal body might be created to deal with the large class of municipal affairs which are of common interest to the present municipal area and the suburbs. No artificial separation of authorities could change, though it might temporarily disguise, the true facts of the position; there can be no real separation of the municipal interests which the European population of the suburbs share, by force of geographical circumstances, with the European and Asiatic population of the central area. In order that matters affected by these common interests may be effectively dealt with, it is essential that there should be some common body, with adequate powers, on which European and Asiatic representatives can work together on behalf of the whole population of the area concerned.

II. *Financial*.—The objections which have been made on financial grounds to the extension of the municipal area so as to include the suburbs may be classified under two general heads:—

(a) *Impossibility*.—It is said that the cost of municipal administration of the enlarged area would be so great as to make it an impossible financial proposition.

(b) *Unfairness*.—It is contended that any arrangement for pooling the finances of the suburbs and the central area for the purpose of a single municipal administration would result in unfairness either to the central area, or to the suburbs, or to both.

These objections must be more fully stated for the purpose of examination.

(a) *Impossibility*.—It is said that Nairobi Corporation is unable, with its existing resources, to find sufficient money for roads and for other necessary works and services in the existing municipal area; that, if the question were considered on purely financial grounds, there would be a strong case for reducing the existing municipal area and restricting the jurisdiction of the Corporation to the central parts of the town, *i.e.*, to the commercial area and the Bazaar; and that any extension of the existing area is, therefore, out of the question.

The obvious answer to this objection is that, if some form of municipal administration is actually required for the whole area, including both town and suburbs, the total resources available for that purpose cannot possibly be increased in amount by the simple expedient of dividing them between a number of different authorities. The resources available for municipal administration are (1) local revenue, consisting of charges for services rendered and sums levied by way of taxation in the form of rates and licence fees, and (2) Government grants. The total amount which can reasonably be made available under these heads for a given area cannot be increased by the process of dividing that area into a number of separate sections. But, if the area is not so large as to be incapable of efficient control by a single body, the best way of economising the available resources

is to have one body with one staff, receiving salaries on a scale adequate to secure efficiency, instead of six separate bodies with six staffs, most of which would inevitably be poorly paid and would, therefore, in all probability be inefficient. While, therefore, multiplication of authorities cannot increase the total resources available, unified control ought to prevent waste by securing greater economy and greater efficiency. The contention, however, of those who put forward this argument is that the inclusion of a number of suburban areas within the municipal area will have the result of imposing on the suburban areas a system of municipal administration too elaborate and costly for their needs, and that as a result it will cost more for the Corporation to administer these areas than it would for less ambitious local bodies to provide for their limited municipal requirements. "We cannot," say those who picture themselves as members of a Corporation responsible for the administration of the whole area, "make and maintain all the suburban roads, and provide all suburbs with drains, sewers, and street lighting and scavenging services, but we shall be pressed with demands for such works and services immediately the suburbs are included in the municipal area, and what answer can we make to those residents in the outer suburbs who complain that their suburbs do not receive the same attention as areas which are nearer the centre of the town?"

The answer to the financial argument, as put in this form, is that in any case the coat must be cut according to the cloth; the mere fact of inclusion of suburbs in a municipal area does not increase their actual needs, or entitle them to demand that they shall at once be put on the same level as the more fully developed portions of the town. Reasonable provision in accordance with actual requirements, and in proportion to the resources available, is all that a municipal authority can be expected to provide.

(b) *Unfairness*.—It is urged on behalf of the centre of the town that the suburbs will cost more than they will bring in—that is, that the cost of providing municipal administration for the suburbs will exceed the amount of their contributions to municipal revenue, and will, therefore, unduly increase the burden on the central portions of the town, which are alleged to be already too heavily taxed, by reason of the high valuations put on central sites, and in effect to be paying to-day substantial sums towards providing services for portions of the suburban areas already included within the municipal limits.

On the other hand, it is urged, on behalf of some at least of the suburbs, that, as the result of inclusion in the municipal area, they will be required to pay heavy rates for which they will get no adequate return, that their own roads will be neglected while their money is spent elsewhere, and that they will be better off if they retain their independence so that they may be certain that all sums raised by their

suburban rates will be spent on meeting their own suburban requirements. Some opponents of extension of the municipal area are even inclined to combine these two arguments, and to say that to-day it will not pay the central area to take in the suburbs, or the suburbs to be included within the central area, and that the time for any extension of the municipal boundaries to include the suburban area will not come until it can be shown that both sides will profit financially from the transaction.

There is an obvious difficulty in reconciling the two points of view embodied in this last contention, but this combination of two arguments, which would seem to be mutually destructive, may be partially justified if a distinction is drawn between different portions of the suburban areas ; it may be said for instance that, in the case of a comparatively rich suburb, such as Muthaiga, already provided with reasonably good roads, inclusion within the municipal area will, from the purely financial point of view, involve some sacrifice, that is, that it is likely to be called on to pay more than it will receive ; while in the case of a poor suburb, such as Eastleigh, inclusion is likely to confer a financial benefit, because, to begin with, at any rate, the amount of its contribution is almost certain to be less than the expenditure which it will be necessary to incur in providing it with roads and services.

The general answer to all such arguments, based on attempts to strike an exact balance between payments to be made by, and expenditure to be incurred in, different areas, is that it would be quite inconsistent with the principles which underlie all municipal government to attempt to construct municipal areas on the theory that each area should include only those regions which will at once constitute, so to speak, a good commercial proposition from the point of view of their prospective partners. Municipal legislation unites the inhabitants of a given area in partnership on terms which enable and require them to co-operate in the interests of the area as a whole, for the purpose of providing the local works and services which are needed by the different portions. The partnership into which they are brought does not rest on a purely commercial basis. If it did, it might conceivably be left to individual bargaining between inhabitants directly concerned in the construction of a particular road or the provision of a special service. It rests on the assumption that it is necessary to secure the co-operation and contributions of all in order to meet the needs of all. To some extent, the contributions are proportioned to benefits received ; but in local as well as national taxation, it is necessary, in order to obtain the necessary funds, also to have recourse to taxation on the basis of ability to pay. This principle of contribution according to ability to pay applies to contributions payable in respect of areas, as well as to contributions payable by individuals. To some extent the richer area, like the richer individual, must contribute towards meeting the needs of its poorer neighbours, otherwise the services which are required in the common

interests of all cannot be provided. If municipal units were to be based on the commercial principle of the richer area in the centre of a town only admitting adjacent areas to partnership when they were rich enough to join on an equal footing, rich central areas, such as are to be found in the hearts of all great cities, would always remain in isolation from their poorer neighbours ; but such a policy of isolation would be fatal to the interests of both parties, because the poorer areas would never be able to provide proper services for themselves, and the richer areas would suffer because the roads and the sanitation of their neighbours were being neglected. Under such conditions a situation may eventually arise in which the central area is compelled, in its own interests and for its own protection, to intervene in the affairs of the outer areas in order to help in providing particular services which they are unable to provide for themselves. In the end this piecemeal method of procedure may be more expensive to the central area than if it had admitted its suburbs to full partnership at the outset. When such a full partnership has been established between richer and poorer areas the richer areas are eventually rewarded for expenditure on the development and improvement of the poorer areas by increased taxable capacity represented by the rise in property values ; but, where there is no such partnership, and there are separate rating systems, any expenditure which the richer areas are compelled to make in the poorer areas does not bring that reward because the values created by such expenditure are not subject to a common rate.

In London, where the progress of municipal government has been marked by a gradually increasing recognition of the necessity of co-operation between richer and poorer areas in the interests of the whole, there is now, in addition to general contributions made on the basis of rateable value to meet common obligations, an equalization of rates fund, by means of which contributions are levied on the richer areas in order to assist the authorities of the poorer areas in providing for services for which each authority is required to make separate financial provision in order to meet its own obligations. Such contributions have to be devoted by the authorities which receive them to the following purposes in the order of priority indicated : —

- (a) To general sanitation and public health purposes ;
- (b) to public lighting ; and
- (c) to street maintenance.

The Municipal Commission appointed in the Transvaal in 1907, which reported in May, 1909, was specially required to consider the question of the contraction of municipal boundaries, which, when the system of municipal government was introduced after the South African War, had been drawn so as to include large areas, to the extent of eighty and even one hundred square miles under the jurisdiction of single authorities. The following extracts from its Report refer to

contentions put forward by advocates of smaller areas similar to those with which we have been dealing, namely: (a) that some of the outlying portions of municipal areas were not receiving adequate services in return for their contributions to municipal taxation, and were taxed for services rendered to the central portions only; and (b) that the outer areas involved burdens on the central areas owing to the outer areas being unable to defray the cost of their administration.

The Commissioners dealt with the first of these two contentions as follows:—

PARA. 4. “Your Commissioners think that, in order to arrive at a true appreciation of the connection between the various parts of the Johannesburg municipal area (80 square miles in extent), it is desirable to inquire whether community of interest exists, and are of opinion that, if sufficient community of interest can be established, the Municipality should be treated as a whole.”

PARA. 5. “No useful purpose can be served in endeavouring to ascertain whether it pays one part of the Municipality to be associated with another part, as though the connection were to be regarded from a purely commercial point of view. For instance, it was contended by one witness that the revenue derived by the Municipality from the northern and other suburbs and outlying portions of the Municipal Area during the financial year 1905-6, was approximately £20,150, whereas the expenditure in respect of these suburbs was approximately £25,538, and that this clearly showed that the suburbs concerned were a loss to the rest of the Municipality of some five or six thousand pounds during that year.”

PARA. 6. “We were unable to obtain confirmation of these figures, because the Municipal accounts do not show in what manner revenue and expenditure are allocated to various localities, nor is it possible to do so. A moment’s reflection will show this, for, if it be possible to do so in regard to a locality, it must be possible to do so in regard to each contributor. But it is obviously impossible to work out for each contributor to the Assessment Rate precisely the manner in which his contribution is to be allocated to the various services of the Municipality, and by means of a credit and debit account to show whether such contribution leads to a profit or loss so far as the whole community is concerned.

“Many owners of property in the centre of the town may be mentioned who are a ‘profit’ and many who are a ‘loss,’ but the Municipality is not concerned to ascertain whether certain ratepayers, taken collectively or separately, are profitable or otherwise.”

The following further extract from the Commission’s Report refers to the second of the two contentions mentioned above:—

PARA. 38. “The reason stated in paragraph 2 (b) for the contraction of the Municipal area is based on the contention that the more wealthy portion of the Municipality is entitled to dissociate itself

from the less wealthy portion if the latter can be shown to be a financial burden upon it."

PARA. 39. "If this were the only consideration to be taken into account there would be some force in the contention if it referred to the separation of the Central Area of the Johannesburg Municipality from its outlying portions."

PARA. 40. "The community of interest which, as has already been stated, exists between every part of the Municipality and the central or business part of the city makes it futile to determine the monetary value of one portion to the whole, and the ledgers of the Town Council do not show a debit and credit account of the various portions in their relation to the Central Area. Any such account can only be an estimate more or less approximate to the actual condition."

PARA. 41. "It would be quite easy to show that portions of the Municipality, besides those contained in outlying parts, are a burden on the Central Area, but that would not be sufficient reason for excluding them from the Municipality."

The question whether, if the suburbs are included within the Municipal area of Nairobi, any special provision should be made for differential rating of suburban areas in the first years after their inclusion in order to secure equitable distribution of the common burden, is a question which it will be convenient to reserve for consideration until the general question of rating is dealt with in a later Chapter.

III. *Administrative*—The objections advanced on administrative grounds to the inclusion of the suburbs in the Municipal area may be summarized under two heads:—

1. It is said that the Municipal type of administration is too elaborate and expensive for the suburbs, and will involve an undue burden upon the suburban property owners; and that the suburbs should be left for the present to provide for themselves a cheaper form of administration suited to their needs and conditions.—This point has already been dealt with under the heading "Financial Objections."

2. It is said that the bye-laws adopted for the municipal area provide for a form of control which would involve unnecessary and burdensome restrictions if applied to suburban areas.

Under this heading it was urged:—

(a) that bye-laws in force in the municipal area set up a standard of structural requirements which is too high and too expensive for application to suburban areas.

(b) that certain health bye-laws impose prohibitions which may be necessary and reasonable in the centre of the town for the purpose of promoting public health, but would be unnecessary and unreasonable if applied to the suburbs. One instance given was the existing prohibition against the keeping of cows in the municipal area.

The answer to objections under this heading is that it is quite

possible to frame bye-laws in such a way as to allow for the difference in conditions between a closely settled area in the centre of a town and a garden suburb. Bye-laws in other countries provide for such differentiation. In the case of the restriction against the keeping of cows in the municipal area, the Medical Officer of Health for Nairobi, Dr. Hunter, considered that there was no reason why there should be a general prohibition against the keeping of cows in the municipal area, and that such prohibition should not be applied to suburban areas where houses have large areas of ground attached to them.

12. Having now examined the arguments advanced against the inclusion of the suburbs in the municipal area of Nairobi, and the various alternative solutions suggested, we are satisfied that none of these arguments should be allowed to prevail, that none of the alternative solutions, providing for separate suburban authorities, can be regarded as either defensible in theory or as affording any prospect of successful administration, and that the case, already put forward on general grounds, for the creation of a single municipal authority to control a greater Nairobi, remains unshaken.

We therefore adopt the conclusion that the only satisfactory solution of the municipal problem presented by Nairobi and its suburbs is unification.

13. *Actual area proposed.*—We propose that the future Nairobi Municipal area should include the present Municipal area together with the suburban areas classified under Groups A, B, C, D, E and F, in Part 2 of Chapter I., and depicted on Plate I.

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## CHAPTER III.

CONSTITUTION OF MUNICIPAL COUNCIL FOR  
ENLARGED AREA.

## COMPOSITION OF THE COUNCIL.

The existing constitution of the Nairobi Corporation is based on the recommendations made by the Nairobi Municipal Commission in its first Report, which was presented in April, 1924. That Commission consisted of the Colonial Secretary as Chairman, two other official members—the Commissioner of Lands and the Resident Commissioner, Nairobi—and 4 Europeans, 3 Indians and 1 Goan as non-official members. The recommendation of the Commission was that the constitution of the Corporation should be as follows:—

- 5 European members—to be elected,
- 4 Indian members—to be elected by the Indian Community and nominated by the Governor,
- 1 Goan member—to be elected by the Goan Community,
- 2 Official members—one of whom was to represent the Natives.

It was stated in the Report that the Indian members of the Commission accepted this proposal “without prejudice to the claim of the Indian Community to common franchise,” and with the proviso that the proposal “would not bind it in any way or hamper it in its efforts to secure it in the meantime.”

The Report further stated that the European members “only accepted reduced representation of their community with the greatest reluctance, and in order to secure unanimity,” and that they were “only prepared to agree to the numbers proposed in view of the Indian representation being based on nomination by the Governor, not on election, and on the condition that the two officials should be Europeans, thereby securing a European majority on the Council.” The European unofficial members were of opinion that “only one of the Government nominees should be a Government servant, in order to ensure a European unofficial majority.” It appears, therefore, that complete agreement was reached among the members of the Commission as to the composition of the Council except on the point last mentioned, *i.e.*, on the question whether both the Government nominees should be officials, or whether one should be an official and the other an unofficial European. The Government eventually decided, with the approval of the Secretary of State, that the Council should consist of twelve members:—*viz.*, five elected Europeans, four Asiatics and one Goan nominated by the Governor; the Senior Commissioner, Nairobi; and one European to be chosen by the other eleven members and appointed by the Governor. Instead, therefore, of there being two official members of the Council nominated by the

Governor, there was to be only one official member, and the twelfth member was to be a European chosen by the other eleven. The Council has, since 1925, been constituted on this basis.

2. If the recommendation made in the preceding Chapter, that the municipal area should be extended by the inclusion of the suburban areas, is adopted, a new situation will be created which will necessitate the revision of the existing constitution of the Nairobi Corporation. It is essential that some provision should be made for the representation of the suburban areas which are to be included, and that the size of the Council should be increased so that the new body for the enlarged area may be equal to its increased responsibilities.

It may be noted that persons resident outside the municipal area of Nairobi, but engaged in business in that area for a specified period, have been regarded as qualified to vote in the informal municipal elections hitherto held, and that a certain proportion of suburban residents have thus been enabled to take and have taken a share in electing European members to serve on the Municipal Council. But this fact does not, in our opinion, affect the necessity of providing for representation of the suburban areas as soon as the municipal boundaries have been extended to include such areas.

In order that the residents in the suburban areas may be satisfied that their local interests will be adequately safeguarded, we consider it desirable that their representation should be on a geographical basis; *i.e.*, that provision should be made for representation of these suburban areas on the basis of the Ward System. This will almost inevitably involve the application of the Ward System also to the existing municipal area, a change which we also regard as desirable on general grounds, which are stated below.

The population figures for the existing municipal area and the adjacent suburban areas are given in Table I. The total European population of the existing municipal area is 2,665; the total Indian population 7,741; Arabs number 76, and other non-natives 1,382. The existing division of representation in the Council between the different communities—European, Indian and Goan—was fixed by agreement, but it rests on no agreed numerical basis in relation to the population figures or voting strength of the different communities. In dealing afresh with the question of representation it is, we think, necessary to recognise that the arrangement adopted by agreement by the Commission of 1924 is a factor to be considered in any revision now undertaken. As already mentioned, the elected European members are at present 5 in number; this gives one member to every 533 of the European population; but, if the sixth (co-opted) European unofficial member is included in the calculation, the result is to give one member for every 444 of the European population. The elected Indian members number 4, which gives one Indian member for every 1,935 of the Indian population.

TABLE I.  
NON-NATIVE POPULATION OF NAIROBI AND ITS ENVIRONS.

	EUROPEANS.			INDIANS.			ARABS.			OTHERS.			GRAND TOTAL.		
	M.	F.	Total.	M.	F.	Total.	M.	F.	Total.	M.	F.	Total.	M.	F.	Total.
<b>I.—MUNICIPAL AREA.</b>															
1. The Town ..	314	199	513	4,978	2,326	7,304	12	3	15	752	323	1,075	6,056	2,851	8,907
2. Parklands ..	612	500	1,112	249	154	403	42	7	49	143	98	241	1,046	759	1,805
3. The Hill ..	524	516	1,040	20	14	34	6	6	12	45	21	66	595	557	1,152
TOTAL .. ..	1,450	1,215	2,665	5,247	2,494	7,741	60	16	76	940	442	1,382	7,697	4,167	11,864
<b>II.—SUBURBAN AREA.</b>															
1. Upper Parklands	181	253	434	—	—	—	1	—	1	1	1	2	183	254	437
2. Muthaiga ..	86	84	170	3	1	4	3	—	3	13	2	15	105	87	192
3. Kilimani ..	150	137	287	14	1	15	—	—	—	2	3	5	166	141	307
4. Eastleigh ..	4	5	9	174	118	292	2	—	2	31	11	42	211	134	345
TOTAL .. ..	421	479	900	191	120	311	6	—	6	47	17	64	665	616	1,281
<b>III.—RURAL AREA.. ..</b>															
TOTAL NAIROBI	1,899	1,713	3,612	5,442	2,614	8,056	66	16	82	988	463	1,451	8,395	4,806	13,201

3. The populated suburban areas which it is proposed to include fall naturally into four geographical divisions :—

(1) The south-western group, consisting of Upper Hill Estate, Kilimani, Thompson's Estate, and Ngong Road plots ;

(2) The north-western group, consisting of Westlands, Upper Parklands, and Marlborough Estate ;

(3) Muthaiga ;

(4) Eastleigh.

The European population of the south-western group, according to the 1926 Census, is 287 ; of the north-western group 434 ; of Muthaiga 170. In Eastleigh the Census shows only 9 Europeans, 292 Indians, 2 Arabs and 42 other non-natives.

We propose that under the revised arrangement, which will become necessary on the extension of the municipal area, the number of non-official representatives for the existing municipal area should remain unchanged, but that such representatives should be distributed among different wards, separate systems of division into wards being adopted for the purpose (a) of European and (b) of Indian representation, and that one representative should be accorded to each of the four suburban areas. In view of the character of the population of these areas this will result in the addition of three European members and one Indian member to the Council as at present constituted. It may perhaps be objected to this proposal that it involves an unduly large representation of the suburban areas mentioned. But where an amalgamation of areas takes place for Government purposes, whether local or national, it is by no means unusual to find provision made for safeguarding the interests of the smaller units or areas, included in such an arrangement, by according to them representation on special terms, more favourable than those which apply to the more important members of the new partnership.

In the case of the north-western group of suburbs (Parklands) the number of European inhabitants is approximately the same as that which would entitle this region to a separate member on the same numerical basis as applies to the Europeans in the municipal area itself. In the case of Muthaiga and the south-western group the numbers of Europeans are much smaller, and the representation accorded to these regions will therefore be on a much more generous basis per head of population than that which applies in the existing municipal area. It has, however, to be remembered, that Muthaiga is an existing local Government unit, with local interests of its own, and, though its population is comparatively small, it would not be reasonable to require Muthaiga to throw in its lot with the rest of the municipal area without giving it separate representation. In the case of the south-western group of suburbs, there is no existing township body, but here too is an area which, by reason of its geographical position and local features, appears to us to be entitled to separate

representation upon its inclusion within the municipal area. The population of this region is likely to show a considerable increase, when adjacent areas of Crown land, lying to the north of the existing suburbs, are thrown open for development. Eastleigh is to some extent a parallel case to Muthaiga and in spite of the comparatively small numbers of the Indian population, we think that it should be accorded a member of its own. It is obvious that it has special local interests, which require to be safeguarded in future municipal development. It must also be remembered that, though the actual population of Eastleigh is small, the owners of plots number 965.

4. The proposals outlined above will involve the addition of four members—three Europeans and one Indian—to the Municipal Council, for the purpose of representing the suburban areas, and that addition to the existing numbers will, we think, clearly render out of date the curious arrangement adopted under the 1924 constitution for the choice of the twelfth member. We propose that this arrangement, whereby one European member of the Council was chosen by the votes of the remaining members, should be dropped, and that the sixth European unofficial member for the existing municipal area should be elected in the same way as other European unofficial members.

The constitution of the Council will, therefore, under our proposals be as follows :—

- 9 elected European members.
- 5 elected Indian members,
- 1 Goan member,
- and the Senior Commissioner.

We propose, however, that the strength of the Council should be further increased by the addition of a Railway representative. The reasons for recommending the appointment of a Railway representative are stated in Chapter VI. Further, if effect is given to the recommendation made in the Report of this Commission on the Settled Areas, as to the establishment of District Councils, a representative of the District Council to be established for the District surrounding Nairobi will also be added to the Nairobi Municipal Council.

The reason for the proposed provision, whereby the District Council for an area surrounding a Municipality and the Council or Board of such Municipality should each have the right to elect a member of its own body to serve on the other body, is that it appears desirable that there should be some form of liaison between two bodies so situated in relation to one another ; this question is more fully dealt with in the Commission's Report dealing with the Settled Areas.

5. We have stated above that the agreement with regard to the existing composition of the Nairobi Municipal Council which was reached by the Commission in 1924, is, in our opinion, a factor to be considered in any revision of that constitution which is now undertaken.

The proposals outlined above have been prepared with due regard to this factor, and leave the numbers of unofficial members for different communities chosen for the existing municipal area unchanged ; but, while they involve some increase both of European and non-European representation in the Council as a whole, their net effect, from the point of view of racial representation, will be to substitute for a Council consisting of seven Europeans (one official and six non-official), four Indians, and one Goan, a Council consisting of eleven or twelve Europeans (two official and nine or ten non-official), five Indians and one Goan. The composition of the new Council, as proposed, will therefore involve a proportionately greater representation for Europeans than that which obtains on the present Council. We have already stated the reasons for the various detailed changes proposed, but it now remains for us to consider them as a whole with special reference to the question of their effect on the position as regards racial representation.

We have not discussed in this Report, and we do not propose to discuss, the question of representation on the basis of a common roll, because we are all agreed in recognising that that plan, whether desirable or not, cannot to-day be regarded as within the scope of practical politics. The difficult question of apportioning representation between communities inevitably arises so long as communities are accepted as the basis of representation.

In the Council as at present constituted the European members have, as appears from the figures already quoted, a small majority when there is a full attendance. Whatever opinion may be formed on the question of the extent to which this Council has proved itself an efficient body for purposes of municipal administration—a subject on which the evidence shows a conflict of opinion—we do not consider it in principle desirable that a municipal body should be constituted in such a way as to produce so near a balance in the representation accorded to different racial communities as obtains under the present constitution. In our opinion, such a condition of things tends to cause in the Council party division mainly based on racial lines, and to strengthen, rather than diminish, any inclination on the part of councillors themselves, or their constituents, to treat municipal questions from a racial point of view. For this reason, apart from any other considerations, an increase in the comparative strength of the European representation on the municipal body to be constituted for the enlarged area, is in our opinion, a desirable change.

The maintenance of a European majority was an essential stipulation on the part of the European members of the 1924 Commission but, for the reasons indicated above, we do not consider that the actual composition of the Council, as eventually agreed upon by the Commission, was calculated to give effect to this stipulation in such a way as to secure permanently satisfactory results for the different

communities concerned, or for the municipal welfare of Nairobi as a whole.

The question of racial representation in relation to the municipal constitution of Nairobi should, in our opinion, be decided on the basis of the two following propositions :—

(1) That it is essential that the European community should, under the present circumstances, be entrusted with the larger share of responsibility for the municipal government of Nairobi, and that the proportion of European representation on the Council should be in conformity with the obligations of this trust ;

(2) That it is also essential that the Indian community should have such representation on the Council as will enable it to give effective co-operation, and as will ensure full consideration of the special interests of the Indian inhabitants.

In the constitution as proposed above of the Council for the enlarged municipal area, we consider that these two essential requirements are fulfilled.

6. Some witnesses have stated that instances can be quoted from the past history of Municipal Government in Nairobi, to show that, at times when there was either no Indian representation, or much smaller representation than there is to-day, Indian interests have been neglected and that, at such times, the Indian quarters of the town have had less than their fair share of the limited sums available for Municipal expenditure. We do not feel that we can profitably undertake such an investigation of past history as would be required for the purpose of forming our own conclusions on this point and we, therefore, express no opinion with regard to it ; but our answer to those who consider that in the past such complaints have been well-founded and who, therefore, have fears as to the future, is that the representation of the Indian community for which our scheme provides is amply sufficient to ensure full presentation of their special claims, and that the sense of fair play among the European members of the Council, and their constituents, and the fuller realization of that true community of interest, which means that any neglect of one area, or one section of the population inevitably reacts adversely on the interests of the whole population, are factors which can, we believe, be relied upon to secure equitable administration, and to prevent cases arising in the future which might justify complaints of this character.

#### PROVISION FOR FORMAL ELECTIONS AND FOR INTRODUCTION OF THE WARD SYSTEM.

7. As appears from the foregoing paragraphs, we propose that provision should now be made for formal elections of Councillors, both for the European and the Indian communities, and for the introduction of the Ward System. It will be recalled that the European members of the 1924 Commission stated that they were only prepared to

agree to the numbers proposed in view of the Indian representation being based, on nomination by the Governor, not on election. Our proposal that provision should now be made by law for formal election of Indian, as well as European, representatives involves a departure from the terms of that stipulation, but the Indian representatives, as well as the European, were, in 1925, chosen by a process of informal election though the election of the Indian representatives was organized and conducted by the Indian Association (with the assistance of members of the Municipal Staff) and not by the Municipal Corporation itself, as in the case of the European representatives. Most of the European witnesses have recognized that it would be unsatisfactory to adhere to the present method of informal election for Europeans. There is no guarantee that these informal elections will be properly conducted in accordance with definite rules and, when any question arises as to the procedure followed in the actual election, or as to the conduct of candidates and their supporters, there is no recognized tribunal to which the point at issue can be referred for decision.

These objections to the recognition of informal elections apply both to elections conducted by the Municipal Corporation for the choice of European representatives, and to elections conducted by the Indian Association for the choice of Indian representatives. We think it is clear that the time has come to abandon such informal elections in both cases, and to provide for elections by both communities being conducted on a legal basis.

The Indian community has hitherto declined to accept registration on a communal roll, but we understand that their attitude on this subject is now likely to be modified. Our recommendations as to the holding of Municipal elections for the purpose of choosing the Indian representatives are based on the assumption that Indians will now accept registration on a communal roll.

8. Some witnesses have supported the introduction of the Ward System, for the purpose of elections within the existing municipal area, on the ground that election of Councillors by wards will tend to stimulate a healthy and more continuous interest in municipal work. Complaint is made to-day of apathy on municipal questions, and it is noticeable that hitherto very little attempt has been made to organize electors for the special purpose of watching the conduct of municipal affairs, and keeping in touch with individual councillors. So long as councillors are elected for the whole of the existing area, no voter in that area has any special claim on the attention of an individual councillor, and there is no particular group of voters to whom a councillor feels it his duty to address himself for the purpose of explaining and defending his actions as their representative, and claiming their support. The Ward System usually has the effect of encouraging voters to organize themselves into local groups for the purpose of urging their views on their ward representatives, and of thus providing each

councillor with one or more groups of voters with whom he feels it his duty to keep in touch. In the absence of any other effective organization of voters for municipal purposes, such local organizations may serve a very useful purpose.

9. The main objections to the Ward System are :—

(1) That it is apt to produce a spirit of parochialism in both voters and councillors, *i.e.*, to encourage them to look at all questions primarily from a local point of view, and to press the claims of particular localities at the expense of the interests of the town as a whole.

(2) That it sometimes makes it difficult for parties or sections which represent only a small portion of the entire population, but whose views may nevertheless deserve a hearing, to obtain representation, unless they happen to be concentrated in one particular geographical area. Such parties or sections may be sufficiently numerous, when the whole municipal area votes as one constituency, to secure the return of one or two members of their own, but may be so distributed in different parts of the area as to form only a minority in any particular ward. Under such conditions, the Ward System deprives them of the chance of representation which they would enjoy if the election were for the whole area, voting as one constituency, on what has been known as the "general ticket system." The argument that the chances of the representation of minorities would be diminished by the adoption of the Ward System was urged on us by the present Mayor of Nairobi.

We recognise the weight of these objections but, in view of the importance of finding some effective means of stimulating greater interest in the municipal affairs of Nairobi, we think that the arguments in favour of the introduction of the Ward System should prevail, even apart from the consideration that, with the extension of the area, at least a partial introduction of the Ward System becomes a necessity.

It may be noted that, if the area, or any large section of it, were in future to vote as one constituency for the election of a number of members, it would be necessary to make some provision to secure that the councillors elected should fairly represent the views of the voters taken as a whole. Where four or five representatives have to be elected by the same constituency, there is a danger that voters may only use one or two of their votes, in order to make sure of the election of particular candidates, and that some of the candidates will be returned by small minorities. In order to provide a safeguard against these defects of the "general ticket" system, it would be necessary either to introduce proportional representation on the basis of the single transferable vote, or to require voters to vote for a number of candidates equal to, or representing a certain proportion of, the total number of seats to be filled.

10. *Methods of Representation Hitherto Adopted.*—Before considering in detail the question of Voters' and Candidates' qualifications, and other questions, it will be convenient to describe the methods hitherto adopted for the purpose of choosing unofficial members of the Municipal bodies which have been established in Nairobi and its suburbs. Until the latter part of the year 1916, the unofficial members of the Nairobi Municipal Committee were chosen at the Governor's discretion, but, in that year, the then Governor agreed to permit the Municipal Committee to organise an informal election of European members and to allow the non-Europeans to be selected on similar lines by their Communities. It was understood that the successful candidates would be formally nominated by the Governor, provided that he was satisfied with the manner in which the election was conducted.

11. *Arrangements for Informal European Election.*—In September and November of 1916, the Municipal Committee considered polling arrangements for a European election and drew up rules regarding the qualifications of voters and candidates. An election was duly held in 1917. In 1919 and in 1925 elections were again held, and several bye-elections were held in the intervening years.

The preparation of the details and procedure of the election scheme in 1916 was placed by the Municipal Committee in the hands of a special Committee, which, to quote the Minutes of the Municipal Committee, was made "responsible for interpreting and carrying out the scheme to the best of their ability, but on all points affecting the election they shall have full discretionary powers and their decisions shall be final. They shall not be bound to state their reasons for any decision which they may make."

A register of Voters was opened, and voting procedure was adopted which precluded voting by proxy, and prescribed that five total votes be allowed, but that not more than one vote might be cast for any one candidate. The Special Committee acted as scrutineers of the voting papers. The Voters' qualifications were as follows:—"Every male European (not being an enemy subject) of or above the age of 21 years who (a) has been ordinarily resident in the township for one year; or (b) has been ordinarily engaged in work in the township for one year; or (c) owns immovable property in the township to the value of £100 shall be eligible for admission to the register. Joint ownership of immovable property shall only qualify where, if the property were divided into equal shares among the owners, each share would amount to the value of £100. In such cases each owner shall be qualified."

As regards disqualifications, the Municipal Committee resolved that "No person shall be eligible for registration as a voter by virtue

of being a shareholder in a Limited Liability Company owning land. No person whose name is not upon the Register shall be entitled to vote. Undischarged bankrupts shall not be eligible for registration."

It was on the basis of a roll so compiled that an election was held in 1917. Another Franchise Sub-Committee was appointed in 1919, preparatory to the election of Councillors, which tightened up admission to the roll in certain respects and extended it on a wider basis in others. The vote was extended to females and to aliens, excepting ex-enemy aliens, modifications in the residential and property qualifications were introduced, and also a requirement of ability to read, write and speak English fluently (unless prevented by physical infirmity) and it was further resolved "that other qualifications should be as in the Legislative Council Ordinance."

In order to get over the difficulty presented by Eurasians, the words "of pure European descent" were used instead of "European." It was also specially provided that a married woman living with her husband would be admitted to the Register, though possessed of none of the above qualifications, provided she was of pure European descent, and was 21 years or over, and not subject to any of the disqualification clauses.

The qualifications for the 1925 election are quoted from the notice issued by the Town Clerk in 1925.

"APPLICATION TO BE PLACED ON MUNICIPAL VOTERS' ROLL."

1. I hereby apply to be entered on Nairobi Municipal Voters' Roll and I hereby solemnly declare as follows:—

2. I am of pure European descent and over 21 years of age.

3. I am:—

(a) owner of real property in the township to the value of over £100.

(b) resident or in business in the township for 12 out of the last 24 months;

AND

(1) occupier of premises in the township of a nett value of £36 or more;

OR

(2) in receipt of board and lodging in the township of the value of Shs. 150 or more per month.

4. I am not an undischarged bankrupt.

5. I have not received relief from public funds within the last 12 months."

These qualifications differed from those of 1919 in that the exclusion of ex-enemy aliens, persons of unsound mind, persons who had undergone 12 months' imprisonment (any part of which was in the last preceding two years), was omitted; the exception granted in 1919

to married women was not specifically mentioned, and the educational qualification of ability to read, write and speak English fluently was also dropped.

We are informed that on the last Voters' Roll 799 males and 419 females, a total of 1,218, were enrolled, and that at the 1925 election, 399 males and 206 females, a total of 605, voted, *i.e.*, 50 per cent. It appears, however, that the roll was not drawn up in strict accordance with the qualifications and that in fact suburban residents, who did not fulfil the property qualifications, were admitted to the roll.

12. *Method of Selection of Indian Members.*—In December, 1916, as a result of petitions and interviews with the Government, the Indian Association was notified that the Governor would be prepared to nominate to the Municipal Council the candidate whose name was submitted by them, provided that he was of good standing and was looked up to with respect by the Indian Community generally, and that he possessed a thorough knowledge of the English language. An election of a kind was held by the Indian Association, but, owing to protests from some members of the Indian Community itself, and after due enquiry, Government concluded that the methods adopted by the Indian Association had not met with the approval of all classes and sects. Other arrangements were made to appoint an Indian member to the Municipal Committee.

In 1917, the Municipal Committee on their own initiative arranged an informal election for the appointment of Indian members for the ensuing year. The qualifications for Indian voters were—12 months' residence and ability to read and write their own names. An Indian Government School teacher was employed to test the latter qualification. Two Indians were elected and sat until the end of that year. Towards the end of 1918 the Election Committee of the Municipal Committee, believing that a large proportion of Asiatic voters who registered in 1917 had only temporarily, and for the sole object of voting, acquired the art of writing their own names, refused to carry names forward from the 1917 Indian Register, and required all Indians to register again. This decision was resented by the Indian Community. From that time until 1925, in the circumstances explained in Chapter I., the Indian Community was unrepresented on the Committee and Council.

In 1925, an informal election was held under the auspices of the Indian Association. An Election Committee was appointed which compiled a Register of Indian Voters. The only qualifications for admission to the Register were that the applicant should be of "Indian Nationality and over 21 years of age." We were, however, informed in evidence by the Representatives of the Indian Association, that temporary visitors and paupers were not admitted to the Roll. The compiled Roll contained the names of 2,043 males and 257 females. There were

eight candidates for election. The procedure at the poll was as follows :—

- (1) Voting was by ballot ;
- (2) Voting by proxy was not allowed ;
- (3) Voters were required to produce the counterfoil of their application form for admission to the Register.
- (4) Each Voter might record four or less votes, but not more than four, and not more than one vote for each candidate.
- (5) Spoilt papers were rejected.

The number of votes polled was (1) by males 1,547 ; (2) by females 221 ; *i.e.*, 1,768 out of an electorate of 2,300 or 77 per cent.

13. *Selection of Goan Representative.*—There was a Goan member on the Nairobi Municipal Committee from 1900 onwards. In December, 1916, the Goan Community petitioned Government for the right to elect their representative in the same manner as the Europeans. Their petition was granted on the condition that every educated adult male Goan would be allowed to record a vote, and that none but educated men, *i.e.*, educated according to Goan standards, would be allowed to stand for election. A Voters' Roll was compiled consisting of 360 names, but prior to the election 189 members of the Goan Community forwarded a protest to Government to the effect that they were being prevented from voting for the candidates whom they wished to support. At the Poll only 153 voters appeared, and Government, after due consideration, concluded that the election had not been conducted in accordance with the conditions specified and consequently made its own choice in nominating a Goan to the Municipal Committee.

In 1917, and 1918, an informal election for the Goan Representative was conducted by the Municipal Committee. Every adult male who had been ordinarily resident for 12 months in the township, and was able to read and write his own name, was qualified for enrolment as a voter. In 1917, 551 voters were enrolled and 509 votes were recorded at the election, at which two candidates stood. In 1918, 578 voters were enrolled but one candidate only stood and was returned unopposed. Subsequently, on the resignation of the Goan member from time to time, the Portuguese Vice-Consul was invited to suggest a successor, which he did after consulting his community. In September, 1923, when a vacancy occurred, the Vice-Consul was unable to find any Goan who was willing to serve on the Council and accordingly that seat was left vacant until the reconstitution of the Council in 1925. In 1925, the Vice-Consul was asked to consult the Goan Community and suggest a name for the Governor's consideration and nomination as Goan representative. The Vice-Consul called a General Meeting of the Goan Community and submitted a name in due course to the Government. Some objection to the procedure adopted by the Vice-Consul was made

to Government by a section of the community, and we had it in evidence from the present Goan Councillor himself that he was dissatisfied with this method of selecting a representative. His point was that there should be formal election machinery set up which would give a vote to Goans—in which case if a Ward System were adopted, he thought that Goans should vote in company with other residents in their ward or wards—but, recognising the difficulty of definitely enfranchising aliens, he suggested that in future informal elections should be conducted by the Municipality for the choice of a Goan member for nomination, just as had been done in the past in the case of Europeans.

14. *Method of Appointing Muthaiga Township Committee.*—In the environs of Nairobi, the Muthaiga Township Committee is the only statutory body created under the Townships Ordinance. Its constitution is provided in the Muthaiga Township Rules, 1922, Section 4 of which reads :—

“ The Governor shall, in the month of January each year, or at such other time as shall be convenient, nominate a Committee consisting of seven Europeans, being plot-holders within the Township of Muthaiga.”

The candidates submitted for nomination are in fact chosen at a meeting of plot-holders which is summoned annually for this purpose. The number of plot-holders is 70, whereas the adult European population of Muthaiga Township is approximately 100. At the 1925 Annual General Meeting fourteen plot-holders attended.

15. *Candidates' Qualifications.*—The Municipal Corporations Ordinance, Chapter 84, provides, in Section 8 (2) and (3), the following disqualifications for Municipal Councillors :—

“ No person holding any office or place of profit under or in the gift of the Council shall be capable of being nominated or of continuing a councillor.”

“ No person nominated a councillor shall have or receive any salary or shall take or accept any fee or reward whatsoever for or on account of anything done as such councillor nor shall he act as agent for any ratepayer at any meeting of any court, board or committee appointed to assess the value of property for rating purposes. Any councillor contravening the provisions of this Section shall *ipso facto* become disqualified from continuing as councillor.”

In actual practice, however, further qualifications have been required without any legal sanction since 1916. At a General Meeting of the Nairobi Municipal Committee held on November 28th, 1916, the Committee adopted the following resolution :—

“ All persons whose names are upon the Voters' Register, excepting Government officials and persons holding offices or places of profit

under or in the gift of the Municipal Committee, shall be eligible for candidature."

The latter part of this resolution merely repeated Paragraph 8 (2) of the Municipal Corporations Ordinance, 1909, which was itself repeated in Paragraph 8 (2) of the Municipal Corporations Ordinance, Chapter 84. At an Extraordinary General Meeting of the Nairobi Municipal Committee held on September 15th, 1919, a report of a Franchise Sub-Committee was considered. In the 5th paragraph of that report, the Sub-Committee recommended "that the special disqualifications should not include Government employment." It does not definitely appear in the Minutes of the Committee that this recommendation was accepted but we understand that in fact it was. The following further qualifications were also required :—

(1) The candidate should have ordinarily resided within the Municipal area, or within five miles of the boundary, for at least three years immediately preceding the election.

(2) Should not have been convicted of a criminal offence and sentenced to six months' imprisonment or more without having received a pardon, subject to a proviso that this disqualification might be remitted by order of the Governor in Council.

(3) Should not have received relief from any public funds within twelve months of his nomination.

(4) Should not be an undischarged bankrupt.

(5) Should be able to read and write or (? and) speak the English language unless prevented by physical infirmity.

16. *Term of Office.*—The Municipal Corporations Ordinance provides in Section 7 (1) that

"the Council of any municipality shall consist of so many councillors as the Governor shall from time to time by notice in the Gazette determine in respect of such municipality, to be appointed by the Governor and to hold office during the Governor's pleasure, for a period not exceeding three years. Provided that at least one-third of such members shall retire from the Council every twelve months, such retirement to be in rotation and provided further that nothing in this sub-section shall prohibit the re-appointment of the retiring or retired councillor."

The first Nairobi Municipal Council was appointed on July 9th, 1919, "for a period not exceeding two years," and, although the life of a Council may have been extended for various reasons beyond this term, no Council has been appointed originally for a longer period than two years. Effect has never been given to the provisions in the Ordinance for annual retirement of a proportion of the Councillors. The Muthaiga Township Committee is appointed annually.

## PROPOSALS.

17. *European Voters' Qualifications*.—Taking as a basis the qualifications prescribed for Europeans in the informal election in 1925, we suggest that the qualifications to be laid down in future for European voters should be as follows :—

- (1) European origin or descent.
- (2) Age not less than 21 years.
- (3) Either (a) ownership of rateable property within the municipality to the capital value of £100, or
  - (b) (1) residence in the Municipality for twelve months out of the twenty-four months preceding the date of registration and either (2) occupation for a like period of premises in the Municipality of an annual value of £36, or
  - (3) in receipt, at the date of registration and for six months out of the twelve months preceding such date, of earnings at the rate of not less than £15 per month.

Provision should be made that a married woman who is a European adult, resident in the municipal area, shall be qualified to vote in respect of a residential qualification as stated in 3 (b), even though not qualified under (b) (2) or (3), if her husband is so qualified. If the Municipality be divided into wards, a voter should be entitled to vote in every ward in which he is qualified. He should be regarded as qualified, in the case of an ownership qualification, in the ward in which the property is situate and, in the case of a residential qualification, in the ward in which he is resident. No voter should have more than one vote in any ward.

It will be noted that the qualifications stated do not include the requirement that a voter shall be a British subject. Different opinions were expressed as to the inclusion of this qualification. The total number of European aliens resident in Nairobi, as recorded in the 1926 Census, was 307. Aliens owning rateable property will, of course, be liable to the payment of rates. We have not overlooked the fact that since 1921—the date of annexation—it has been open to aliens to become qualified for naturalisation by virtue of residence in the Colony. It may, however, be noted that New Zealand affords a precedent for admitting aliens to the local Government franchise, while excluding them from membership of local Government bodies.

There should be the usual disqualification for voters on similar lines to those which apply under the Legislative Council Ordinance.

18. *Candidates' Qualifications.*—The qualifications of candidates should be the same as those of voters, but a person should be disqualified for election as a member if he—

1. Is not a British subject ;
2. Cannot read, write and speak the English language ;
3. Is in the employment of the Municipal authority ;
4. Has been convicted of a criminal offence and has been sentenced to a term of imprisonment of either description for a term of six months, or exceeding six months, and has not received a pardon. Provided that the Governor in Council may by order in any particular case remove such disqualification.
5. Has received relief from any public funds whatsoever within twelve months of his nomination as a candidate for election.

19. *Indian Voters' and Candidates' Qualifications.*—We recommend that any British subject of Indian origin or descent, or Indian under the suzerainty or protection of His Majesty, should be qualified as a voter or candidate if possessed of the same qualifications as apply to Europeans, subject to the substitution of £12 for £36 as the annual value of premises for the purpose of the occupation qualification in *b* (2) ; and of £5 for £15 for the purpose of the earnings qualification in *b* (3) above.

20. *Term of Office.*—We propose that the term of office for members of the Council should be three years and that one third, or as near as may be, of the total number of elected members should retire annually. Members chosen at the first election will retire in the order fixed by their places in the Poll.

21. *The Question of Goan Representation.*—In this case, in order to enable the Goans to be represented by a Goan, an exception should, we think, be made to the general rule requiring that members of the Council shall possess the qualification of being British subjects. The waiving of this qualification in the case of the Goan representative appears to us to be justified by the special circumstances of the Goan community, but we do not propose that formal elections should be held for the choice of a Goan representative. It must be recognised that the arrangement whereby a special representative is provided for a community, consisting of persons who are not British subjects, is of a wholly exceptional character. While we advise that it should be continued as a special concession to the community concerned, we do not think it should be put on a legal basis by constituting the Goans as a separate electorate under the Municipal Elections Law. We propose that the Governor should have power to nominate a

representative of the Goan community, and that, if it is his wish that an informal election should be held for the purpose of enabling the Goans to submit proposals to him as to the person to be nominated, such an election should be managed and conducted under the auspices of the Municipal Council.

22. *Suggested Wards.*—The geographical division of wards must, in the first instance, be made arbitrarily in the light of such information as is available. The only material for calculations is contained in the 1926 Census. For Census purposes the present municipal area was divided into 27 Enumeration areas, which included all the inhabited parts of the municipality, but did not cover the whole area. Generally speaking, Enumeration areas followed well-defined boundaries, but at some points they followed the boundaries of plots or cut across plots; nor were they grouped on the basis of community of interests. The *total* population only of each area is available. This information, however, serves as a basis for a division into electoral wards.

23. We deprecate the establishment of a number of small wards, and propose the following divisions in respect of the present Municipal area of Nairobi.

#### EUROPEAN WARDS.

Three wards—each to return two members.

*Ward I. The Hill Ward.*—Commencing at the junction of the Kerichwa Dogo River with the Kerichwa Kubwa River (being a point on the Municipal Boundary);

Thence by the latter river to its intersection with the Nairobi River;

Thence by that river to its intersection with the Kenya and Uganda Railway main line (at Ainsworth Bridge);

Thence down line by that Railway to its intersection with Kirk Road;

Thence southerly, by that road to its junction with Whitehouse Road;

Thence, easterly, by that road to its intersection with the stream (near Plot 279/3);

Thence by that stream, down stream, to its intersection with the Municipal Boundary (near the western corner of Plot No. 255);

Thence generally westerly and northerly, by the Municipal Boundary to the point of commencement.

This ward has a total European population of 1,052, and includes Enumeration areas 4, 5, 23—26.

*Ward II. Parklands.*—Commencing at the junction of the Kerichwa Dogo River with the Kerichwa Kubwa River;

Thence, generally north-easterly and easterly, by the Municipal Boundary to its intersection with the Kyambu Road ;

Thence, south-westerly, by that road to its junction with the road between Sections LXXV and LXXVI ;

Thence south-westerly by that road to its junction with Swamp Road ;

Thence, south-westerly, by that road to its intersection with the Nairobi River ;

Thence, westerly, by that river up-stream to its junction with the Kerichwa Kubwa River ;

Thence by that river up-stream to the point of commencement.

This ward has a total European population of approximately 1,052, and includes Enumeration areas 2, 6, and part of 8. The plots lying between the Nairobi River and Government Road which formed part of Enumeration area 8 have been excluded from this ward and placed in Ward III. An arbitrary deduction of 28 has been made in respect of these plots from the total population of area 8.

*Ward III. The Town.*—Commencing at the intersection of the Municipal Boundary with the Kyambu Road ;

Thence, easterly, south-easterly and generally westerly, by that boundary to its intersection with the stream near the western corner of Plot No. 255 ;

Thence by the eastern boundary of the European Ward No. 1 and part of the southern boundary of the European Ward No. 2 to the point of commencement.

This ward comprises the remainder of the present Municipal area and has a total population of 561. In addition to this population, we propose that such Europeans as live in Eastleigh Township or in the remainder of Group A, and in Group F—see Chapter I, Part 2—should vote in this ward.

As already noted the ratio of European seats for the present municipal area is 1 per 444 of the population. It is seen, therefore, that Wards I and II are slightly under-represented with two members each and Ward III is over-represented. We think, however, that the apparent over-representation of Ward III will be rectified, at least in part, when account is taken of the votes of property owners who do not reside in that ward.

24. As regards the Suburban Areas, there will be three wards, viz. :

1. GROUP B.—Muthaiga, Medical and Forest Reserves.
2. GROUPS C, D.—Upper Parklands, Westlands, etc.
3. GROUP E.—Thompson's, Kilimani, Upper Hill Estate, etc.

(The full description of the areas included in these groups is in Chapter I, Part 2.)

As regards Group D, that part of it which is at present occupied by Europeans adjoins Group C, and may be conveniently included

with Group C, in one ward. In the future, when other portions of Group D are occupied, their inclusion in one ward, either with Group C, or with Group E, will be a matter for consideration.

#### INDIAN WARDS.

25. As regards the present municipal area we propose that there should be two Indian wards and suggest that the present municipal area be divided for this purpose into two wards, No. 1 West and No. 2 East, by the lines described hereunder:—

Commencing at the intersection of the Municipal Boundary with the Kyambu Road;

Thence southerly by that road, to its junction with Quarry Road;

Thence south-easterly, by that road to its junction with Race Course Road;

Thence south-westerly, by that road to its intersection with the Nairobi River;

Thence by that river up-stream to a point where Reata Road produced intersects this river;

Thence south-westerly by that road (and the part produced) to its junction with Victoria Street;

Thence by that street to its junction with 4th Avenue (produced);

Thence south-westerly, by that Avenue (and the part produced) to its intersection with a stream, 850 feet approximately from the Kenya and Uganda Railway;

Thence by that stream, down stream, to its intersection with the municipal boundary (near the western corner of Plot No. 255);

*Ward I. The West Ward* would have a population of 3,768, *i.e.*, Enumeration areas 3—5, 7—14, 23, 24, 26, 29, 31, 32.

*Ward II. The East Ward* would include Enumeration areas 15—20, 27, 28, 30 and 33, and have a population of 3,992. It may be recalled that the Superintendent of Suburban Areas claimed that a number of Eastleigh residents were counted on the Census day at their place of work, and we observe that in Enumeration area 33—the Railway Workshops—the count showed 680 residents.

As the ratio of seats, taking the existing municipal area, is 1 per 1,935 head of population, these proposed wards appear to be satisfactory.

There are a few Indians living in the suburban areas, *viz.*, 4 in Muthaiga Township, and 15 in Kilimani, and we suggest that, for purposes of election, they should be regarded as eligible to vote in the west ward, Ward I, that is to say that Indian residents in Groups B, C, D and E—see Part 2 of Chapter I—should vote in that ward.

26. A third Indian ward should, we propose, be constituted to include Groups A and F, that is, Eastleigh township and the adjacent areas contained within those groups. The population of this ward would be approximately 300.

## CHAPTER IV.

## FINANCIAL PROVISIONS.

*Part I.*

## PRESENT POSITION IN MUNICIPAL AREA.

The main evils of the present financial system are :—

- (a) Insufficiency of the revenue contributed by the public ; and
- (b) Insufficiency and uncertainty of the contributions made by the Government towards Municipal expenditure.

The slow progress of development in regard to roads, drainage and other important public works, and the unsatisfactory conditions which exist in connection with sanitation and public health, which have been referred to in Chapter I, can, we believe, be accounted for to a large extent by the inadequate financial resources of the Municipal Council, and the partial dependence of the Council upon the granting of additional subsidies from the Government on no recognised basis, when any special need arises, which has hitherto been a feature of the position.

It is necessary, in our opinion, that the Municipal Council should possess real financial responsibility and independence within certain recognised limits, and should be endowed with adequate financial resources, and we propose to show in this Chapter that the needs of the situation can to a large extent be met (a) by adequate use by the Council of its powers of raising revenues from the public ; and (b) by contributions on a settled basis from the Government.

2. We do not propose to review in detail the financial transactions of the Council except in so far as may be necessary for our purposes, but full information is provided in this respect in extracts from a memorandum and financial statements prepared for us by Mr. E. V. Shilton, *vide* Appendix II.

3. The present revenues of the Council are derived from the following sources :—

- (a) Charges for services rendered (Sanitation, Water, etc.).
- (b) Assessment Rates on the unimproved value of land.
- (c) Licence Fees (in respect of Vehicles, Dogs, Trades, etc.).
- (d) Sundry receipts (Court Fines, Bank interest, Rents, etc.)
- (e) Contributions from Government :—
  - (i) In lieu of rates on occupied Government properties (excluding Government House) ;
  - (ii) Crown Rents derived from leases of Crown lands within the Municipal area ;
  - (iii) Grants in aid of Trunk Roads expenditure ;
  - (iv) Special Grants.

4. Expenditure is incurred by the Council for the following purposes :—

Conservancy, Sewerage, Refuse removal, Public Conveniences, Cleansing of Streets and Drains, Slaughter-House, Funerals, Cemeteries, and Native Burials.

Road construction and maintenance, Drainage, Parks and Open Spaces, Street Lighting, Water Supply, Markets, Fire Brigade, Pounds, Native Villages, and Building Inspection, General and Financial Administration.

5. Assessment rates are levied upon the unimproved value of land, and rates hitherto have been as follows :—

1921	.. ..	$\frac{1}{4}$	per cent., equal to 0·6 pence in the £.
1922	.. ..	$\frac{1}{3}$	” ” ” 0·8 ” ” ”
1923 and 1924	.. ..	$\frac{5}{8}$	” ” ” 1·5 ” ” ”
1925 and 1926	.. ..	$\frac{3}{4}$	” ” ” 1·8 ” ” ”
1927 (proposed)	.. ..	1	” ” ” 2·4 ” ” ”

The existing valuation roll was compiled in 1920, and no provision was made in the Nairobi (Rating of Unimproved Site Values) Ordinance, Cap. 86, for the periodical re-valuation of all rateable property. The Valuation Roll was, however, revised in 1926 in respect of privately-owned land by a Sub-Committee of the Council, although no legal machinery existed for the purpose. This revision has resulted in a reduction of the total value of privately-owned land from £1,726,060 to £1,220,266, a reduction of £505,794. Of this reduction, re-valuations account for a net amount of £448,097, while the remainder is due to the elimination of properties which have reverted to the Crown and other special adjustments.

A re-valuation of occupied Crown Land, which has since been made, has resulted in an increase of the value of such land from £331,256 to £647,130. Occupied Crown Land included in this re-valuation represents land which is used for Government purposes, such as public buildings, residences of officials, and Railway property, excluding only the railway track outside the Station area and certain properties such as Government House, Schools, Hospitals, etc. The following reasons are given by the Land Department for the increase in the value of occupied Crown Land :—

“ On closer investigation it was found that several areas occupied by Government had not been included in any previous Schedule, and that the valuation of other plots in the Commercial area required adjustment.”

“ The discrepancy between the figures now supplied and those on which Government contributions have in the past been based is largely due to the method of valuing an area in the mass rather than plot.”

The Rating Ordinance, Chapter 86, provides for the imposition of rates upon the “ owners’ estate or interest in the unimproved value of

land," but the effect of this provision does not seem to have been fully appreciated, as the valuations of rateable property made do not distinguish between interests, as, for instance, the separate interests of lessors and lessees in land held under leasehold title.

The rates which have been imposed have in our opinion been low and have not produced sufficient revenue to provide adequately for the proper development of the town.

We understand that rates commonly imposed by the smaller Town Councils in the Transvaal in areas which are much more compact and less costly to administer than Nairobi are rarely less than 5d. in the £, and are frequently as much as 7d. in the £, on the Site Value of land. The maximum annual rate hitherto levied in Nairobi of three-quarters per cent. is equal to 1·8d. in the £, on Site Values. Generally speaking, the values of land are higher in the Transvaal towns referred to than in Nairobi. We think, in view of these facts, that the powers of taxation possessed by the Nairobi Council have not been used to as great an extent as circumstances would have justified, apart, at any rate, from the difficulties with which the Council was confronted in regard to the Government contribution.

6. The contributions of the Government to Municipal revenues in the year 1925 were as follows :—

In lieu of rates on occupied Government land (excluding Government House) at three-quarters per cent. . . . .	£	
Crown Rents received by the Government, less commission for collection . . . . .		2,484
Trunk Roads Grant . . . . .		4,856
		780
		<hr/>
		£8,120
		<hr/>

In respect of the years 1925 and 1926, special grants of £5,000 for each year were paid by the Government to enable the Council to carry out certain road work which was urgently necessary and for which no funds were available. These grants were additional to the ordinary contributions of the Government and were of a purely temporary nature.

Excluding these special grants, the regular contributions made by the Government to Municipal revenues have, in our opinion, been inadequate and have not been arrived at on a satisfactory basis. This opinion is based on the following grounds :—

(a) Contributions in lieu of rates on occupied Crown land have been calculated on values which have been shown by a recent valuation to be considerably less than the true values of such land (*vide* Statements from the Land Department quoted in paragraph 5 above).

(b) Contributions have not been made in lieu of rates on unoccupied Crown land but grants equivalent to the amounts received by the Government as Stand Premia and Crown Rents from alienated Crown land have been paid to the Council.

This arrangement took effect from the year 1920 and Crown Rents actually paid to the Council in 1925 amounted to £4,856. Stand Premia receipts paid to the Council have hitherto been trifling. Valuations of unoccupied Crown Land are included in the existing Municipal valuation roll, but are stated to be unreliable. A new valuation of such land has, however, recently been made by an Officer of the Land Department and, on the basis of that valuation, rates on unoccupied Crown land and the capitalized value of Crown Rents taken together, would amount at three-quarters per cent. to £5,172 and at 1 per cent. to £6,896. The Crown Rents for 1925, therefore, amounted to rather less than a rate at three-quarters per cent. on the Crown land in question but, if higher rates had been levied by the Council, there would have been no corresponding increase in the Government's contributions.

The reasons why, in our opinion, the contributions of the Government should be based upon the value of land in the same manner as the contributions of the public are explained in Part IV of this Chapter.

(c) Nairobi is the Administrative Capital of the Colony, and the Government therefore has a special interest in the progress and development of the town.

(d) Owing to the widespread character of the town and other special circumstances affecting its situation and development, the Council is confronted with problems the solution of which will require the expenditure of large sums of money. Substantial Government assistance is in our opinion required in order to secure the carrying out of necessary municipal works without imposing too great a burden on the individual ratepayer.

The contributions of the Government are moreover of an uncertain nature and have never been placed upon a permanent basis, with the result that applications have constantly been made by the Council to the Government for more money. It is clearly unsatisfactory that Municipal development should be retarded for want of a proper arrangement between the Government and the Council in regard to the amount of the contributions to be made by the former on account of Municipal expenditure.

Grants have been made to the Council on account of Trunk Road expenditure amounting to £780 per annum. This figure represents one-third of the estimated cost of Trunk Roads traversing the existing Municipal area, and was based on the estimates of cost prepared when the Council took over the roads in 1923. With the growth of traffic,

different and more costly types of roads have become necessary and the grant is now entirely inadequate and no longer represents the proportion of the total expenditure originally fixed as the Government's liability.

A further contribution towards Municipal funds which, however, does not take the form of a direct subsidy, is the payment by the Government of the entire cost of Public Health Services carried out by the Medical Officer of Health and his Staff. Our proposals in Chapter VII include a recommendation that such services shall be placed under the control of the Council, and that the Council shall bear the cost thereof, subject to a refund by the Government of one-half of the Salaries and Allowances paid to the Medical Officer of Health and qualified Sanitary Inspectors, and one-half of all expenditure incurred by the Council in connection with outbreaks of infectious diseases within the Municipal area. This will involve an additional burden upon the finances of the Council which it is estimated, according to information supplied by the Deputy Director of Sanitary Services, will not exceed £4,400 per annum.

### *Part II.*

#### PRESENT POSITION IN SUBURBAN AREAS AND CHARGES INCIDENT ON INCLUSION IN ENLARGED AREA.

Taxation is only imposed in the suburban areas in the townships of Eastleigh and Muthaiga and takes the form of Rates levied in accordance with rules made under the Townships Ordinance, as follows:—

*Eastleigh.*—The Eastleigh Assessment and Rating Rules of 1922 provide for the levying of rates by the Governor on the net annual value of property—and the rates in any one year may not exceed 10 per cent. of such values.

Mr. Ridout, the Superintendent of Suburban Areas, giving evidence before us, stated:—“The practice has been to impose a 10 per cent. rate on every plot or sub-plot not exceeding one-fifth of an acre; 5 per cent. for every plot exceeding one-fifth of an acre; and 2½ per cent. for every building as defined in Clauses 1 to 4 of Rule 12 of the Eastleigh Township Rules, 1921.” (Clauses 1 to 4 of Rule 12 refer to Domestic Buildings, Public Buildings, Buildings of the Warehouse class, and Stores). “As regards land, the net annual value is taken by me at 10 per cent. of the capital value; buildings are assessed at the known rental; reductions are made in the case of empty premises.”

These rates in 1925 produced £309.

*Muthaiga.*—The Muthaiga Township Rules of 1922 provide for the imposition of rates half-yearly at 20s. per annum per acre or part acre of each plot or sub-plot. In 1925 the revenue from Rates was £620.

2. It is impossible to estimate in figures the effect on the financial position of the present Municipal Council of the proposed inclusion in the municipal area of the outlying suburbs, but it may be assumed that services such as Road Construction and Maintenance, Sanitation, Refuse Removal, etc., will only be provided gradually as they become necessary, or as the contributions of any particular district towards municipal revenues justify such provision. The position, in the event of the municipal area being enlarged as proposed, may be stated generally as follows :—

*Sanitation and Refuse Removal.*—These services will not be immediately necessary in all parts of the suburban areas, but might have to be carried out in certain areas under conditions which will render the fees charged on the ordinary scale insufficient to cover the cost of the service in respect of such areas.

*Road Construction.*—Expenditure will probably have to be incurred in the construction of roads in many parts of the suburbs, as, except in the case of Muthaiga, very few roads have been made. No obligations have been placed upon Estate owners to equip the areas laid out with the necessary municipal services and it may be necessary for the Council to use the powers conferred under the Townships (Private Streets) Ordinance, 1924, in order to obtain contributions from the owners of land towards the cost of construction of necessary streets, and to prevent the whole of such charges falling upon general revenue.

The Township of Eastleigh is in rather a different position, in this respect, to the other Estates, as the Government has acquired the unsold land in the township at a low price, as compared with the official estimate of current values, and we think the Government should undertake to make a substantial contribution towards equipping the township with roads from the proceeds of sales of plots and should, if circumstances so require, be prepared to make such contributions in anticipation of such proceeds. The provision of the access road through the present municipal area, which is estimated to cost £1,200, is necessary for the development of the township and, as the prices obtained for land in the township by the Government will be considerably enhanced by the existence of such a road, we think the Government might reasonably be expected to meet a large proportion of the cost.

Certain areas which it is proposed to include in the enlarged municipal area consist of undeveloped private estates and undeveloped Crown Land. In these cases, we consider that, before sanction is given to fresh sub-divisions, suitable terms should be imposed on the Estate owners with regard to the construction of roads and laying of water mains. This question is referred to again in Chapter IX.

Road construction and maintenance, so far as undertaken by the Council, will have to be carried out by degrees, according to the needs

of each district. Outlying suburbs with few inhabitants cannot be provided with complete systems of roads, but should be given, as soon as reasonably possible, necessary roads to provide them with adequate means of access to the town.

*Water Supply.*—Water is already supplied by the Nairobi Municipal Council to some of the suburban areas at rates 25 per cent. in excess of the amounts charged within the municipal area. Apart from any special provision in the law, allowing the Council to continue to charge for water supplied to the suburban areas at a higher rate, charges would have to be made uniform throughout the enlarged municipal area upon the inclusion of the suburbs. This would involve a loss of revenue on the present basis of approximately £400 per annum. If any such special provision is made, we think it should not extend beyond a limited period. No provision has yet been made for supplying water to Eastleigh Township, where the service is urgently required. The capital outlay necessary for the extension of a main and the provision of stand-pipes at central points, is estimated at £3,000, and we think that this amount should be provided by the Government as owner of the greater portion of the township, subject, possibly, to some arrangement between the Government and the Municipality as to eventual refund or as to the right of the Government to share any revenue derived from charges made for water.

### *Part III.*

#### CHARGES FOR SERVICES AND RATING SYSTEM.

The following recommendations are made with a view to remedying the evils of the present position and providing a satisfactory financial system for the enlarged municipal area proposed.

*Charges for Services.*—We consider that charges for services rendered should, wherever the benefits of such services can be definitely allocated, be made under special tariffs against the persons receiving the benefits. This principle has in the main been followed but, in the case of the removal of refuse from private premises, no special charges are made. It is true that the profits on conservancy more than cover the cost of refuse removal, but both services are not always rendered in respect of the same premises. The householder who is contributing towards profits on conservancy or other forms of municipal taxation may therefore be paying for the removal of refuse from the premises of other people.

The case of outlying suburbs, in which it may not be necessary to provide certain services, presents a strong argument against meeting the cost of any service, the benefits of which can be definitely apportioned, from general taxation, and there will be many such cases if the area of the present Municipality is extended as proposed by us.

Charges for services would, we think, have to be imposed on a uniform basis throughout the enlarged area.

*Recovery of Charges for Services.*—We think that charges for conservancy and refuse removal should be recoverable from the owners of the premises and that such charges in respect of a limited period should be secured upon the properties in respect of which the services are rendered, because :—

(a) The services are necessary for the protection of the health of the whole community, and the local authority cannot, therefore, refuse to provide such services if payment is not made ;

(b) If the obligation to pay such charges is placed entirely upon occupiers of premises, recovery is frequently difficult and bad debts are inevitably incurred ;

(c) When bad debts are incurred to any extent the cost of the services to the rest of the community is increased.

It is, however, necessary, in our opinion, that the Council should also have power to take proceedings for the recovery of such charges from occupiers of premises, in order that difficulty may be avoided in the case of absentee owners. We propose, therefore, that the Council should be empowered to proceed jointly and severally against owners and occupiers, provided that occupiers should be entitled to deduct from any rent or other amount due by them to the owners, any portion of such conservancy and refuse removal charges paid by them which the owners could not properly have required them to pay under the terms of their occupation of the premises concerned.

We append a draft clause embodying these suggestions.

*Draft Clause.*

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

(2) When any charges due in respect of any premises for sewerage, sanitary and refuse removal services shall remain unpaid for a period of six weeks after the date on which written notice shall have been given by the Council to the owner or occupier of his indebtedness, the Council may, at any time within twelve months after such date, proceed jointly and severally against the owner and occupier for the time being of such premises for the amount of such charges or any part thereof, and may recover the same from such owner or occupier ; provided that every such occupier shall be entitled to deduct from any rent or other amount payable by him to the owner of the premises any portion of such charges paid by or recovered from him under this

Sub-Section which the owner could not lawfully have required him to pay, and the production of the receipts for such portion of such charges so paid or recovered from such occupier shall be a good and sufficient discharge for the amount so paid or recovered as payment of rent or other amount.

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

2. *System of Rating.*—We do not propose in the body of this Report to deal with the rating problem in detail. Mr. E. V. Shilton has furnished the Commission with a memorandum (Appendix III) on the general question of rating on the basis of capital values of land and improvements in which the main arguments for the system we propose are set forth.

The system we recommend has the advantage that few alterations to the present system of rating are involved, and the Council, if it elects to do so, may continue to impose rates entirely upon the unimproved value of land. Briefly, the proposed system provides:—

(a) For the rating of separate interests in land against the persons enjoying the benefits of ownership ;

(b) For the imposition of rates on the unimproved value of land, and also, at the option of the Council, upon the value of improvements to a certain limited extent.

The full details of the proposed system are embodied in a draft Ordinance (Chapter V), and the main points in which it will differ from the system now in force in Nairobi are explained in Chapter V, but we desire to make clear our reasons for recommending that the power to rate improvements should be conferred upon the Council. The following general reasons for having recourse to an improvement rate as a supplementary source of revenue are set forth in the report of the Transvaal Local Government Commission of 1915, and are quoted in Mr. Shilton's Memorandum:—

(1) The entire exemption of improvements might involve excessive rates on land values ;

(2) The entire exemption of improvements is likely to drive Councils to excessive taxation through profits on commercial services, and thus to exaggerate what is already an objectionable tendency in municipal budgets.

(3) Taxation on land values cannot be shifted, and will, therefore, under present conditions, be borne by a small minority of municipal voters who will be at the mercy of the majority ;

(4) Heavy rates on land values tend to cause crowding of buildings on areas in central portions of towns ;

(5) If a rate on land values will not produce adequate revenue for

municipal needs, a rate on improvements is the best supplementary source of revenue, because

(a) Expenditure on municipal improvements and services helps to maintain, though it does not create, the value of buildings ;

(b) Part of a rate levied on buildings is paid by the tenant, and it is reasonable that residents in a town who are not owners of rateable property should make some contribution towards municipal expenditure from which they benefit, and which they help to control ;

(c) A rate on land values is not in exact proportion to benefits received from municipal expenditure ; to prevent inequity resulting from too high a rate on land values, recourse may become necessary to taxation on the basis of ability to pay, and on this basis a supplementary rate on buildings is as fair a means of raising revenue as any that is open to municipal bodies.

We think that these general considerations apply to a large extent in Nairobi, but there will, in our opinion, be a special reason for the imposition of an improvement rate if the outlying suburbs are included in the municipal area. The values of land in the suburbs are low compared with the values of land in the central area, and the imposition of a rate on improvements will enable a proportionately higher contribution to be obtained from the richer suburbs than would be the case if rates are levied entirely on site values.

#### *Part IV.*

##### GOVERNMENT CONTRIBUTION.

*General Considerations.*—The question of the basis to be adopted for Government contributions to municipal expenditure requires to be examined in the light of the following considerations :—

(1) The position of Government as landowner and occupier (in its capacity as employer) of land and premises in a municipal area to whose premises and employees services have to be rendered, and whose property benefits in common with the property of private owners from municipal works and improvements, has first to be taken into account with a view to determining the Government's liability in these capacities in relation to the liability of private citizens in their capacities as residents, owners and occupiers of premises.

(2) Particular works or services, responsibility for the execution of which should rest with the municipal authority (*e.g.*, construction and maintenance of main roads, and public health services), are obviously required not only for the benefit of the area concerned, but also for the benefit of adjoining areas and of the country as a whole. Some plan has to be adopted for the purpose of apportioning on a fair basis the cost of such works

or services between the property owner and resident in the municipal area, and the general taxpayer.

(3) It is also necessary to consider how far the resources of a municipality require to be supplemented, particularly in its early stages, by assistance from the Central Government, in order to enable the citizens to make a success of municipal government and to provide adequately for the development of the town, not only in their own interests, but also in the interests of the surrounding district and of the country generally. If, in order to secure a contribution from Government which will be sufficient from this point of view, it is found necessary to make special arrangements involving some addition to the amounts to be contributed by Government under the two previous heads (viz., (1) Government's contribution in its capacity as land owner and occupier of premises, and (2) its contribution towards particular works, the cost of which should be apportioned between the municipal area and the country as a whole), the basis adopted for any additional contribution should be such as to secure that the Government contribution as a whole, while fairly assessed in relation to its liabilities, and sufficient to give the urban community the assistance which they require, is not used to relieve members of that community from contributing their fair share towards municipal expenditure, and is not so variable in amount as to introduce confusion into municipal finance, and deprive the municipal authority of the general financial responsibility which should rest upon it.

The subject of the Government's contribution can therefore best be dealt with by first considering the principles which should govern a determination of the Government's liability as landowner and occupier of premises, and the contribution which should be paid in discharge of such liability, and then dealing with the further claims which may arise under the other heads mentioned in the light of the figures available.

2. So far as concerns the Government's liability as owner and occupier of premises in municipal areas, no difficulty arises in the case of those municipal services for which direct charges are made; the cost of such services is, if the tariff is properly framed, distributed among the persons served in strict proportion to the benefits received, and it is clear that Government should normally be required to pay for services, for which direct charges are made, on the same basis as any other recipient of such services.

3. When, however, we come to the question of rating, we are no longer dealing with a charge which is based directly or solely on an apportionment of benefits received. How far rates levied are proportionate to benefits received must depend on the system of rating adopted and on the character of municipal expenditure defrayed

out of such rates. Adoption of the system of rating unimproved, or site, values of land is justified on the ground that this system not only has a beneficial effect upon development, but also that it affords the best means of securing that payment shall be in proportion to benefits received. It is recognised that expenditure on municipal improvements tends to enhance land values, not building values, and it is therefore held to be fair that the taxation required in order to pay for such improvements should be mainly, if not solely, based on land values. (*Vide* Appendix III).

Crown land receives benefits in the same way as other land from the construction of roads and the provision of other municipal improvements. If no contribution is made in respect of such land, an increased share of the cost of such improvements will inevitably have to be borne by other land owners. They will have to pay for the Government's share in the benefits of such improvements, as well as for their own share, and the existence within their municipal area of holdings of Crown land which require the same provision of roads and other improvements as private estates, but are exempted from any liability to contribute to the rates, would disturb the relation which should exist between the cost of services and improvements, and the value of the land affected and available to contribute towards meeting such cost. These arguments point clearly to the conclusion that, in so far as rating is based on site values, Government's property, speaking generally, should pay on the same basis as private property.

4. Different considerations apply, however, to rates based on improvement values.

(1) An improvement rate, according to the principles already laid down, may fairly be used to supplement rates on the unimproved value of land, when sufficient revenue cannot be obtained from the latter without imposing too great a burden on land, but the imposition of an improvement rate involves some departure from the principle of payment in proportion to benefits received. In the case of ordinary ratepayers, improvement rates must be regarded as based rather on ability to pay than on benefits received; but the value of improvements made by Government on Crown land can hardly be accepted as a suitable measure of the Government's "ability to pay."

(2) The establishment of Government offices or works and the erection of public buildings in any given area involve the expenditure of public money in that area which confers both direct and indirect benefits on the inhabitants. It is a commonplace that every town is eager to secure the establishment within its borders of Government administrative offices, and the erection of public buildings for such offices and for Court houses, post

offices, schools, hospitals and other institutions. People also demand that Government buildings should be of a dignified and substantial character, so as to add to the attractions and importance of the town in which they are erected.

It is, therefore, in principle undesirable that, where a particular area is benefited by the expenditure of large sums of public money on the erection of public buildings, Government's contribution to the municipal revenue of that area should be automatically increased in proportion to the cost of the buildings erected. Where, however, other ratepayers pay on improvements as well as on land, it may be necessary, in order to prevent an undue share of the burden falling on the private property owner, that some corresponding contribution should be made by Government on a special basis, in recognition of the increased provision of roads and other services necessitated by the existence of Government establishments.

While the last mentioned considerations are of general application, it is obvious that they apply with special force to a town which is the capital of a country, and the seat of Government, or to a town which is the principal port.

5. We now proceed to examine, in the light of the considerations above stated, the question of the basis to be adopted for Government contributions towards municipal expenditure in Nairobi, but it should first be explained that, in this Chapter, all Crown interests in land, including property reserved for the use of the Kenya and Uganda Railway, are treated as a whole; and all Government contributions have been calculated on all such interests for which valuations have been provided. The position in regard to rating of property reserved for the use of the Railway is specially dealt with in Chapter VI.

Of the different forms of Government contributions which have been considered by us, contributions on the basis of rateable values of land appear the most suitable; except in the case of contributions towards the cost of Main Trunk and Main District Roads. The advantages of such a form of contribution appear to us to be as follows:—

- (a) The Government will not be called upon to contribute towards expenditure of the Council unless the public makes a proportionate contribution in the form of rates;
- (b) As Crown land is disposed of, the burden will be shifted from the State to private owners of land;
- (c) The contribution will be automatically regulated—which will prevent any uncertainty on the part of the Council as to the amount of revenue to be derived therefrom.

*The contribution in lieu of rates.*—We propose :—

(1) That the contribution in lieu of rates shall take the place of the present grants in respect of :—

(a) Contributions in lieu of rates on the value of occupied Crown land ;

(b) Crown Rents ;

(c) Special Grants ;

(2) That the contribution shall be based upon the unimproved value of all interests in land held by the Crown, subject to exemptions on account of the following :—

(a) All land which would be exempt from taxation if privately owned ;

(b) Land used, or held in trust, for municipal purposes ;

(c) Government house and grounds ;

(d) Land used for hospitals, educational purposes, rifle range, public parks, recreation grounds, and veterinary quarantine areas ;

(e) Railway lines.

(The question of exemption under (e) will be specially dealt with in Chapter VI).

(3) That, where rates are levied upon the unimproved value of land, the Government shall contribute in all respects in the same manner as private owners of lands, subject to the exemptions above mentioned, and to a maximum of 2 per cent. on the total unimproved value of all Crown interests in land on which the contribution is calculated.

Where improvement rates are levied we find that the same method of calculating the contribution as is proposed in the case of rates levied upon the unimproved value of land is not advisable for general reasons already stated, and also because in Nairobi the value of improvements held by the Crown in proportion to the value of improvements held by the public is substantially less than the value of land held by the Crown in proportion to the value of land held by the public ; if therefore any proportion of the rate is imposed upon improvements, and the Government contributes upon the value of improvements in the same manner as private owners, the total contribution payable will represent a smaller proportion of the total rate and contribution combined than would be the case if the whole of the rate was imposed on land ; there would, under such circumstances, be a strong temptation on the part of the Council to avoid rating improvements, no matter how desirable such a course might be for the purpose of obtaining an equitable distribution of the rate between private ratepayers.

In order, therefore, that difficulties shall not be placed in the way of the Council if it considers an improvement rate desirable, we propose :—

(4) That the Government's contribution on account of improvement rates shall be calculated in the same proportion to the total amount of the improvement rate payable by the public as the Government's contribution on land bears to the total amount of the rate on land payable by the public. For instance, if the contribution of the public towards a rate on land is £10,000, and the Government's contribution towards such rate is £5,000, the contribution of the Government towards any improvement rate imposed will be one-half of the contribution of the public towards such improvement rate.

We propose, however, that the total contribution in lieu of rates payable by the Government, whether an improvement rate is levied or not, shall not exceed the amount which would be produced by a rate of 2 per cent. on the unimproved value of all Crown interests in land on which the contribution is calculated.

Proposals are made in Part VII of this Chapter that the Government's contributions in lieu of rates should be placed on a statutory basis.

*Main roads contribution.*—The contributions of the Government towards expenditure on Main Trunk and Main District Roads must, we consider, be based upon cost. The present contribution is calculated on the basis of one-third of the cost of maintenance, but we think there is good reason for increasing the proportion to one-half. The responsibility of the Government in connection with Main Roads is limited to the provision of roads sufficiently well constructed and maintained to provide for the needs of through traffic; and any increased expenditure necessary on account of greater cost of construction and maintenance because such roads serve as streets of the town, should be borne by the Council. Where Main Roads serve as main traffic arteries through the centre of the town, they are used largely by local traffic, and the Government's contribution of the total expenditure should probably be much less than one-half; but where Main Roads traverse thinly populated residential areas and the main volume of traffic is not local, the Government's contribution should in many instances approach very nearly the total cost of such roads. We feel, however, that any attempt to adjust accurately Main Roads expenditure between the State and the Council would be a complicated process and, for that reason, we prefer that a contribution representing a fixed proportion of the total cost should be paid by the Government. The inclusion of the outlying suburbs in the municipal area will increase the extent of Main Roads for which the Council is responsible. The

additional roads brought into the municipal area are at considerable distances from the centre of the town, and it is not probable that they will require a class of construction and maintenance much beyond what is necessary for the purpose of providing for through traffic. There is therefore, in our opinion, a good case for increasing the contribution from one-third to one-half of the cost, in order to provide a fair average contribution over the whole of the enlarged area. Main Road contributions should, we think, be of two kinds:—

- (a) On account of construction of new roads and reconstruction of existing roads to bring them up to the standard necessary to provide for the present classes and volume of traffic ;
- (b) On account of maintenance.

It will be necessary in the case of (a) for a programme of construction and re-construction to be agreed upon by the Government and the Council to be carried out over a period of years, and for the grants to be fixed accordingly. In the case of (b) we think estimates of cost should be prepared upon which the contribution can be based for a definite period, in order to avoid the alteration of the grant from year to year on the basis of actual expenditure.

The programme of construction and re-construction submitted, and estimates of the cost of maintenance are, we think, subjects on which Government should obtain the advice of the Central Roads Board, the establishment of which is proposed in Chapter XIII of the Commission's Report on the "Settled Areas."

#### *Part V.*

#### EFFECT OF PROPOSALS.

*Present Municipality.*—The contributions of the Government to municipal revenues in 1925 (excluding the special contribution of £5,000) were as follows:—

In lieu of rates on occupied Crown land at three-quarters per cent. . . . .	£ 2,484
Crown Rents . . . . .	4,856
Trunk Roads Grant . . . . .	780
	£8,120

The comparisons which follow—between contributions hitherto made by the Government and proposed contributions—exclude consideration of the special grants of £5,000 paid for each of the two years 1925 and 1926, as such contributions were of a purely temporary

nature, had no recognized basis, and were additional to the ordinary annual grants it had been customary to make.

2. Contributions in lieu of rates on occupied Crown lands for years subsequent to 1925, if made on the same basis as in 1925, would be affected by the revised valuations of such land referred to in Part I, and would amount to :—

On rate of $\frac{3}{4}$ per cent.	..	..	..	£4,853
„ „ „ 1 „ „	..	..	..	6,471
„ „ „ $1\frac{1}{4}$ „ „	..	..	..	8,089
„ „ „ $1\frac{1}{2}$ „ „	..	..	..	9,707
„ „ „ 2 „ „	..	..	..	12,942

Our proposals provide for the substitution of a contribution in lieu of rates on a new basis, in place of the present grants in lieu of rates and Crown Rents. The amounts of the proposed contributions have been estimated on valuations provided by the Land Department, in connection with which that Department states :—

“ Attention is drawn to the difficulty of placing a valuation upon Crown lands in unopened areas. The present valuation must, therefore, be accepted with a certain amount of reserve.”

The following figures in connection with Government contributions in lieu of rates must therefore be regarded as subject to alteration in the event of the valuations being revised. The valuations provided may be summarized as follows :—

All Crown interests in land, excluding land used for the purposes of Government House, Schools, Hospital, Rifle Range, Recreation Grounds, Arboretum, Railway Lines :—

(a) Outside Railway area	..	..	..	£735,158
(b) Railway Area	..	..	..	578,783
				£1,313,941
				£1,313,941

Contributions in lieu of rates calculated on this figure would amount to :—

On rates equal to $\frac{3}{4}$ per cent. on site values..	£ 9,854
„ 1 „ „ ..	13,139
„ $1\frac{1}{4}$ „ „ ..	16,424
„ $1\frac{1}{2}$ „ „ ..	19,709
„ 2 „ „ ..	26,278

3. The following statement contains a comparison between the proposed contributions and the existing grants (a) in lieu of rates, and (b) of Crown Rents. Allowance is not made for any increase in Crown

Rents. The last column of the statement shows the contributions of the public towards rates calculated on the present valuations of privately-owned land, viz., £1,220,266 :—

Rates equal to	Contributions on Old Basis.			Contributions on New Basis.		Contributions from Public.
		As in 1925.	On New Valuations of occupied Crown Land.			
¾%	In lieu of Rates ..	2,484	4,853	In lieu of Rates ..	9,854	¾%
	Crown Rents	4,856	4,856			
		7,340	9,709		9,854	9,152
1%	In lieu of Rates ..	3,312	6,471	In lieu of Rates ..	13,139	1%
	Crown Rents	4,856	4,856			
		8,168	11,327		13,139	12,202
1¼%	In lieu of Rates ..	4,140	8,089	In lieu of Rates ..	16,424	1¼%
	Crown Rents	4,856	4,856			
		8,996	12,945		16,424	15,253
1½%	In lieu of Rates ..	4,968	9,707	In lieu of Rates ..	19,709	1½%
	Crown Rents	4,856	4,856			
		9,824	14,563		19,709	18,303
2%	In lieu of Rates ..	6,624	12,942	In lieu of Rates ..	26,278	2%
	Crown Rents	4,856	4,856			
		11,480	17,798		26,278	24,404

It should not be forgotten, when considering the above statement, that Crown Rents are shown at a stationary figure, whereas there is every probability that the amounts derived therefrom will increase. It will be observed from the foregoing figures that, although the

immediate effect of the new proposals on the Government contributions is slight, the benefits of the new basis of contributions become proportionately greater as the rates levied upon the public increase.

4. *Main Roads Contributions.*—It is estimated from information supplied to us by the Municipal Engineer that the grant for maintenance of Main Roads, once the roads concerned have been put into reasonable condition, will, on the basis of a £ for £ contribution, amount to approximately £2,100 per annum. The cost of maintenance of these roads in their present condition may be greater than the amount allowed in this estimate, in which case the grant would be more than £2,100 per annum until the necessary construction and reconstruction has been carried out. The annual amount payable in respect of construction and reconstruction will depend on the period over which the work is undertaken and on the class of construction agreed to for purposes of contribution.

5. Our proposals, apart from the question of direct Government contributions, affect the finances of the Municipality in the following way:—

(a) Additional revenue will be obtained in respect of Refuse Removal fees which, if the tariff is fixed with a view to covering the cost, will amount approximately to £3,000;

(b) Additional expenditure will be incurred in respect to Public Health administration and inspection, which will amount approximately to £4,400;

The immediate effect of our proposals on the finances of the Municipal Council, as far as it can be estimated from the information at our disposal, taking as the basis the rate of one per cent. on land which the Council propose to impose for the current year, would be as follows:—

(a) The proposed Government contributions (excluding the grant for construction and reconstruction of Main Roads) would be:—

In lieu of rates at one per cent.	..	..	£13,139
Main Roads Maintenance Grant	..	..	2,100
			£15,239
			£15,239

(b) The Government contributions on the old basis, allowing for an increase of the rate from three-quarters per cent. to one per cent. but excluding the special grant of £5,000 and making no allowance for increases of Crown Rents, would amount to £8,948. The Council would therefore obtain increased contributions of £6,291, but would have to meet additional expenditure of £4,400, which would leave a net balance in favour of the Council of £1,891.

(c) If, however, the revised valuations of occupied Crown land are taken into account, the contributions on the old basis would amount to £12,107, which is £1,268 more than would be paid on the proposed new basis, after allowing for additional expenditure of £4,400.

(d) The imposition of a Refuse Removal charge would increase the Council's revenue by approximately £3,000 per annum.

The above calculations refer to the present municipal area only, and it will be noted that, in the comparisons made, the proposed grant for construction and reconstruction of main roads on the one side and the special grant of £5,000 on the other side, have not been included.

6. *Suburban Areas.*—The approximate amount of additional revenue which may be obtained as a result of the inclusion of the outlying suburban areas is as follows:—

(a) Assessment Rates from public at 1 per cent.	£3,400
(b) Contributions from Government in lieu of rates at 1 per cent. . . . .	800
(c) Main Roads Grant for maintenance . . . . .	410
(d) Licences and Sundry Receipts . . . . .	100
	<hr/>
	£4,710
	<hr/>

Revenue to be derived from charges for services cannot be estimated, nor can the probable annual expenditure be indicated.

## Part VI.

### SUPPLEMENTARY PROPOSALS.

*Motor Licences.*—In addition to the financial proposals already made, we think the following proposals in regard to Motor Licences should receive consideration. It has been suggested that the Municipal Council is entitled to receive the revenue derived by the Government from Motor Licences issued in Nairobi. In view, however:—

(1) Of the importance of such a change, if generally applied for the benefit of all municipal authorities, in its effect on the revenue of the Colony;

(2) Of the fact that the whole road expenditure of the country outside the municipal areas is now, and is likely for the immediate future to continue to be, provided by the Government out of the general revenue;

(3) Of the fact that a number of motor vehicles, the owners of which reside in other parts of the country, are registered in Nairobi;

we do not desire to recommend that the whole of such revenue should

be handed over to the Council. It is, however, difficult to resist the claim that motor taxation should, to some extent, benefit local authorities, and we feel that, though the Motor Vehicles Tax may be looked upon by Government as part of the general revenue of the Colony, it has in the eyes of the public a direct relation to roads expenditure.

A reasonable arrangement would in our opinion be :—

(a) That one-half of the Vehicle Licences, collected by the Government on account of Motor Vehicles belonging to persons having a residence or place of business within the Municipality where such vehicles are ordinarily housed or kept, should be paid to the Council, subject to the imposition by the Council of the additional tax referred to in (b) ;

(b) That power be given to the Council to impose a tax on such Motor Vehicles as are referred to in (a) of an amount equal to 50 per cent. of the licences imposed under the Motor Traffic Ordinance.

2. An additional tax upon Motor Vehicles as a contribution by the public to roads expenditure within the Municipality can, we think, be justified for two reasons :—

(a) Present Motor Vehicle taxation, even when combined with the Petrol Tax, is not high compared with that in many other countries ;

(b) Inhabitants of the Municipality have the regular use of better and more costly roads than users of Motor Vehicles in country districts, and it is therefore reasonable that they should be called upon to contribute towards roads expenditure at a higher rate.

The annual amount of revenue, which would be derived from the half share of Licence Fees now retained by the Government, and the additional taxes imposed by the Council, would amount to approximately £4,500. It would obviously be desirable that arrangements should be made for single collection of these two taxes and that the necessary amendments to the Motor Traffic Ordinance and adjustments in the machinery for collection be introduced.

The question of imposing a Municipal Motor Tax has received the consideration of the Nairobi Council and the following resolution of the Council, passed at a Special Meeting held on the 1st December, 1926, shows that they are generally in favour of some such measure :—

“ Councillor Hunter proposed, and Councillor Ley seconded, that, in view of the large sum of money necessary for upkeep of Roads, which is not yet provided for in the Municipal Estimates, Municipal taxation of motor vehicles is most essential. As a general principle all motor vehicles coming into Nairobi must pay a Municipal fee. The fees shall be :—for all motor cars, motor tractors and other motor vehicles with four or more wheels, £2 per annum ; for motor-bicycles

including side-cars, Shs. 10/- per annum. The necessary bye-law and details to be prepared by the appropriate Committee.

“The principle of the motion being put forward in Council was carried, Councillor Dr. de Souza being the only dissident.”

3. The proposals, formulated in regard to Government contributions, provide in our opinion a reasonable basis of contribution, if adequate rates are imposed upon the public. We think, however, that the immediate effect of the proposals will not be sufficiently favourable to the Council, and we therefore propose that further provision should be made for a limited period. This conclusion is arrived at with the following considerations in mind :—

(a) The Council will have to provide for expenditure on public health services which has hitherto been borne by the Government, and we do not think the revised basis of contributions will sufficiently compensate for this change until there has been a substantial increase in the amount of the rates levied ;

(b) It is true that our proposals are designed to make increased contributions from the Government contingent upon the increase of local taxation levied by the Council, but we feel that a steady but gradual increase of local taxation is the policy to be encouraged, and that, as rating is now to be introduced into most of the suburban areas for the first time, it would clearly be undesirable to put the Council in a position in which it would be forced to increase its rate of taxation too rapidly in the first two or three years after the extension of the area.

We think, therefore, that the Government may reasonably be asked to ease the position for the next few years by an additional Government grant. We propose that the additional contribution should take the form of a diminishing grant ; that the amount payable for the first year be a fixed sum not exceeding three-fourths of the net amount of Health Expenditure which will become a charge on municipal funds ; and that the grant should be payable for a limited number of years, subject to reduction each year of a proportionate amount, so that at the end of the period fixed the grant would entirely disappear.

4. Our proposals in connection with Staff in Chapter X will involve further payments by the Government of contributions amounting to one-third of the salaries of the Town Clerk, Town Treasurer and Municipal Engineer.

#### *Part VII.*

#### STATUTORY PROVISIONS IN REGARD TO CONTRIBUTIONS IN LIEU OF RATES.

We propose that the contributions in lieu of rates to be made in respect of Crown land should be put on a statutory basis in such a form as to give the municipal bodies concerned an assurance that they

may depend upon these contributions as an annual source of revenue, provided that they conduct their affairs in a satisfactory manner, and at the same time to reserve to the Government power to reduce such contributions if a municipal body is found after due enquiry to have failed in this respect. We append a draft clause embodying our suggestions on this point :—

*Draft provisions.*

(1) An annual contribution in lieu of rates for each and every financial year shall be payable to the Council from the general revenues of the Colony, as hereinafter provided :—

(a) In respect of all rates imposed by the Council upon the unimproved value of land under the provisions of the Local Government Rating Ordinance (except special rates hereinafter referred to) the contribution shall be calculated upon the unimproved value of Crown land as shown by the valuation made under Section 31 of the Local Authorities Rating Ordinance at the same percentage or amount in the pound as rates imposed by the Council for the same financial year upon the unimproved value of privately owned land ;

(b) In respect of all rates imposed by the Council upon the value of improvements under the provisions of the Local Government Rating Ordinance, the contribution payable shall bear the same proportion to the total amount chargeable as rates upon privately owned improvements as the contribution payable under (a) on the unimproved value of Crown land bears to the total amount chargeable as rates upon the unimproved value of privately owned land,

provided that the total contribution payable for any one financial year (excluding contributions in respect of special rates hereinafter referred to) shall not exceed two per cent. of the total unimproved value of Crown land as shown by the valuation made under Section 31 of the Local Government Rating Ordinance.

(2) In addition to the contributions payable under sub-section (1) of this section, there shall be payable in respect of all special rates imposed by the Council upon a particular area or areas of the Municipality, under the provisions of Section 17 of the Local Government Rating Ordinance, contributions calculated upon the unimproved value of Crown land situated within such particular area or areas, as shown by the valuation made under Section 31 of the Local Government Rating Ordinance, at the same percentage or amount in the pound imposed by the Council in respect of such special rates upon the unimproved value of privately owned land.

The contributions shall become due upon the dates fixed by the Council under Section 19 of the Local Government Rating Ordinance for the payment of the rates in respect of which the contributions are

payable, and, upon the Council passing a resolution to impose any rate, the Council shall forward to the Governor a copy of such resolution certified by the Town Clerk, with a statement of the contribution payable in respect thereof.

It shall be lawful for the Governor to advance to the Council, in anticipation of rates to be levied, any sum not exceeding three-fourths of the estimated total contribution payable in respect of such rates, and any sum so advanced shall be free of interest and shall be deducted from the contribution payable in respect of such rates ; provided that no such advance shall be made in any financial year in respect of contributions on account of rates to be levied in the following financial year.

The Council shall, before the commencement of each financial year, submit annual Estimates of revenue and expenditure approved by the Council in terms of this Ordinance to the Governor and the Standing Departmental Committee on Local Government, together with a statement of the rates proposed to be levied for such financial year and an estimate of the amount of the contribution payable by the Government in respect thereof ; any revised or supplementary estimate of revenue and expenditure approved by the Council shall be submitted in like manner, together with a statement of any proposed alteration in the rates to be imposed and an estimate of the revised contribution payable by the Government, if any.

If at any time it shall appear that the revenues of the Council are not being properly used in the best interests of the Municipality as a whole, or that the administration of the affairs of the Council is ineffectual or wasteful, or that the Council has failed to act in conformity with the provisions of this Ordinance, the Standing Departmental Committee on Local Government may, on a report from the Local Government Inspector, recommend to the Governor in Council that the contribution in lieu of rates for the next succeeding financial year shall be reduced, and the Governor-in-Council, on such recommendations being made, and after such inquiry as the Governor in Council may deem necessary, at which inquiry the Council shall be heard, reduce the contributions by such amount as the Governor-in-Council shall determine ; provided that any such reduction of the contributions shall be notified to the Council within one month after the commencement of the financial year for which such contributions are payable.

2. In the case of Nairobi we consider that the change thus made should render it possible to dispense with the requirements of Section 25 of the Municipal Corporations Ordinance, Chapter 84, which provides that the Council's estimates of revenue and expenditure shall be submitted annually for the sanction of the Governor-in-Council and that the Council shall not, without the sanction of the Governor, incur any expenditure not included in estimates so submitted and

approved. A provision of this nature appears to us inconsistent with the full Municipal status accorded to Nairobi, and its retention would involve a restriction of the Council's authority which would tend to weaken its sense of responsibility.

In making this proposal for dispensing with the requirements of Section 25 of the Municipal Corporations Ordinance in the case of the Nairobi Municipal Council, we are assuming that adequate provision will be made for the audit of Municipal accounts by a Local Government Inspector appointed by the Central Government, and that the sanction of the Governor-in-Council will still be required for all Loan proposals.

### *Part VIII.*

#### FUTURE ENDOWMENT OF THE MUNICIPALITY WITH CROWN LAND.

The proposals made in this Chapter in regard to Government contributions represent our recommendations, but we do not think they should be regarded as providing a permanent settlement of the financial relations between the Government and the Council, so far as the proposed contribution in lieu of rates on Crown land is concerned. The way should, we think, be left open for the eventual endowment of the Municipality with all Crown interests in land not used or reserved for public purposes, and we therefore consider that effect should be given to our proposals with regard to the contribution in lieu of rates for a limited period of not less than five years, after which the matter should be reconsidered, with the possibility of such endowment in view.

2. The policy of endowing a municipality with the public land situate within its area, with the exception of such sites as are actually used for the purposes of the Central Government, or should be reserved so as to be available for such purposes in the future, is a policy for the eventual adoption of which a strong case can be made on general principles :—

(1) The citizens of a town thus benefit from the values which their individual industry and their efforts as a community have had a large share in creating ;

(2) As a town grows in size and importance, and its needs in respect of public works and services become greater, the resources available for the purpose of meeting those needs are automatically increased by the enhancement in value of the municipal land on which new buildings are erected and over which new streets extend.

A natural balance is thus preserved between resources and expenditure. It is necessary, however, to note that in the case of a capital city, which is the seat of Government, as well as in the case of a town which is the principal port of a country, values are largely created by the expenditure of money raised from the general taxpayer. The question of endowing such towns with public lands may therefore have

to be considered in rather a different light to the endowment of an ordinary commercial town, or a town which serves as the centre of a single administrative district. If the policy of endowment is eventually adopted in the case of either Nairobi or Mombasa, it might justify the partial exemption of Crown land retained for public purposes from liability to rates, in view of the extent to which Government expenditure will have enhanced the value not only of the Crown land actually handed over, but of property generally throughout the Municipal area. References may be made in this connection to the third Report of the Financial Relations Commission, Transvaal Colony, 1906, which contains a discussion of this question. An extract from the relevant paragraphs of this Report is appended :—

“ 52. . . . . It is space value, coupled with the question of position, which usually establishes the startling contrasts which so often exist between the building and the agricultural values of land. Now this class of value is the direct product of the common business of the whole town. Wherever trade or manufactures thrive, offices, shops, and the homes of people employed in them, all begin to need more space. The town grows and the value of land begins to rise. These values are the outcome of the common industry. They are the measure, less of the natural resources of the place, than of the use to which its inhabitants have put those resources. Their growth also closely corresponds to the need for increased municipal improvement. Now let it be supposed that while nature has provided two seaports on the same coast with advantages which are as nearly as possible equal, the merchants in one are more active and enterprising than the merchants in the other. Under these circumstances, trade will gravitate to the more energetic community, and its success will be reflected in a growth of the town and a rise in the values of private and public land. If the increased values of public land in the active community are used in the relief of the taxation of the whole country, the inhabitants of both towns benefit alike, and the idle community reaps where it has not sown. It is difficult, therefore, to resist the inference that the surface values in public land should be appropriate to the particular community which creates or enhances them.

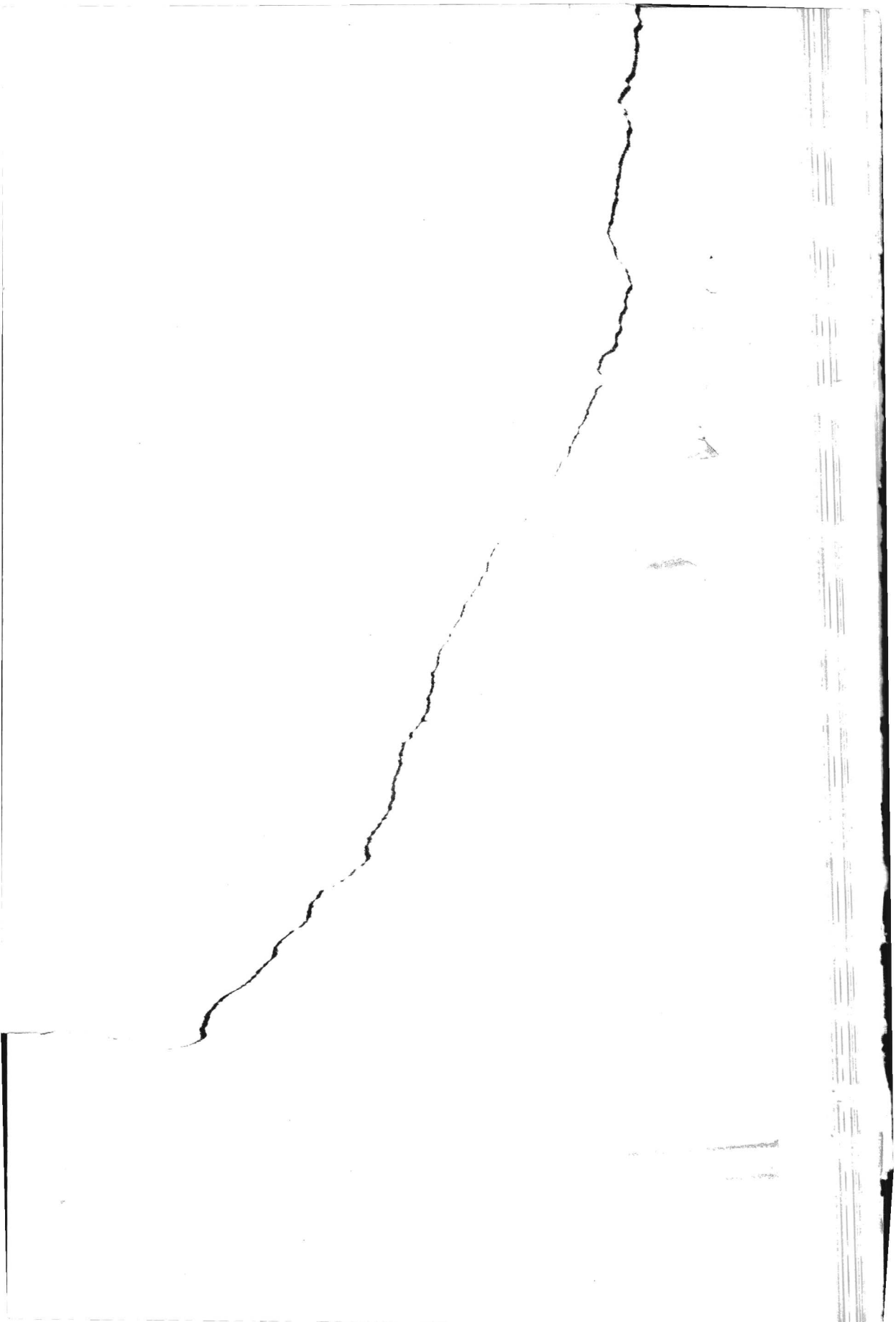
“ 53. The foregoing argument relates to land values, in so far as they are the joint result of the separate efforts of its individual citizens. But they are often created or enhanced by the joint effort of the citizens in their corporate capacity. Where, as at Durban, the Town Council has used its tramways to create building values on Town Lands, the community which has found the money, done the work and taken the risk, is clearly entitled to the result of its enterprise. The argument applies with equal force where public erven are made accessible and habitable by the enterprise of the Local Authority, in building roads, supplying water, and establishing other municipal services.

“ 54. There is a third case where local values are enhanced by the expenditure of national money, and to this kind of increment the Local Authority can lay no claim. It is impossible, however, in practice to separate values of this class from values which result from local activity, or to say exactly how far national expenditure, as opposed to local expenditure or enterprise, has been responsible for creating the increment. Some compensation on this account, however, should clearly be reserved to the State if effect is given to the arguments advanced above by transferring to Local Authorities the surface values of public land in Municipal areas.”

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THE FOLLOWING CHAPTERS  
. V, VI, VII and VIII .  
are to be read as common  
to this Report and to the  
REPORT ON MOMBASA AND  
. . . ITS ENVIRONS . . .



## CHAPTER V.

## RATING LAW.

1. We append a draft Rating Ordinance which has been prepared on the basis of the rating system in force in the Transvaal Province of South Africa, and which we propose should be substituted for the Nairobi (Rating of Unimproved Site Values) Ordinance, Cap. 86, and should also be applied to Mombasa. The Nairobi Ordinance above-mentioned should, we consider, be repealed in view of the fact that a new system is proposed which provides for the rating of separate "interests" and also for the imposition of rates on both site values and improvements. There are, however, serious defects in that Ordinance, amongst which are the following:—

(a) There is no provision for the periodical making of a new valuation roll, which is obviously essential.

(b) Ratepayers are only entitled to inspect entries in the valuation roll relating to their own property and immediately adjoining properties. In order to secure a fair distribution of the burden as between different owners of rateable property in a given rateable area, it is essential that the valuation of all property in the area concerned should be on a uniform basis, so that properties may be correctly assessed in relation to each other. From this point of view, relative values are more important than actual values. Where the value of some properties is too low in relation to the general standard of valuation adopted, the burden on owners of other rateable property in the same rateable area is automatically increased. Any ratepayer should therefore be entitled to object to the valuation on another ratepayer's property on the ground that the property has been valued too low.

(c) Elaborate provisions are made in regard to the keeping of a rate book, which are quite unnecessary and only complicate procedure for the recovery of rates. It may be necessary to prescribe the manner in which such a book shall be kept in the case of a rental value rate, as various deductions and adjustments have to be recorded in connection with rental valuations; but, where a rate on capital values is concerned, a valuation roll prepared and authenticated in the manner prescribed by law is all that is necessary for the protection of ratepayers.

2. The main arguments for the system proposed are set forth in Mr. Shilton's memorandum (Appendix III) and the question of rating improvements has already been dealt with in Chapter IV. The question of rating "interests" and other points which require special mention are briefly dealt with below.

(1) The rating of "interests." The valuation and rating of separate interests in rateable property has been provided for mainly because the method of alienating Crown Land under long term leases is the recognised system of land disposal by the Government. Under such a system, the interests of the lessors and lessees have to be separated to provide for the apportionment of the rates between the persons enjoying the benefits of ownership. The proposed system of Government contribution, based on the rateable value of Government property, makes it particularly necessary that the interest retained by the Government in form of ground rents should be separately rated in order to provide for the proper apportionment of the rate and the Government contribution—between the Government and the public.

For the purpose also of valuing the lessee's interest in property held under lease from the Crown, it is clearly necessary to take into account the rent reserved under the Crown Lease. Rents reserved under Crown Leases are not uniform, different methods of calculating rentals having been adopted at different periods. Further, Crown Leases provided in some cases for the increase of ground rents at intervals during the currency of such leases.

The Registrar of Titles in Mombasa stated that, in the majority of leasehold titles, the Government is the lessor, and the tenure is for 99 years; that there are about three hundred leases by the Crown in existence; and that, in some cases, these leased areas have in turn been sub-leased.

In Nairobi there are numerous Crown Leases in existence and the information supplied by the Land Department shows that, in the case of Westlands Estate held by the Upper Nairobi Township and Estates Company Limited, under a 99 years' lease from the Crown, lots are being sub-leased.

Apart from the fact that the system of leasehold tenure of land is to some extent already established, it would always seem necessary, when rating is based on capital values, to provide for the rating of separate interests where no legal obstacle to the leasehold system exists.

(2) Provision for making a new Valuation Roll not less than once in every five years, and necessary provisions in connection with the basis of valuation; valuers' powers of inspection, etc.; and the lodging of objections to any valuation by persons not the owners of the property concerned.

(3) An alteration of the form of Valuation Court. The form of Court proposed is one of not less than three persons appointed by the Council. This form of Valuation Court has proved satisfactory in the Transvaal, and has the advantages of being inexpensive and expeditious. The right of appeal to a Magistrate's Court is provided for and the decision of such Court is made final, subject to the right

of the Magistrate to reserve any question of law for decision by the Supreme Court.

(4) The special provisions in regard to the confirmation of valuations of property of absentee owners in the Nairobi Ordinance have been omitted. These provisions delay the completion of the roll for six months, and there seems to be no reason why owners of property should be without representatives to protect their interests.

(5) The provisions of the Nairobi Ordinance in regard to special rates have been amplified to provide for objections to such rates being made by interested persons.

(6) The provisions for the recovery of rates in the Nairobi Ordinance have been replaced by those in the Transvaal Ordinance. The Nairobi Ordinance provides special procedure for the recovery of rates, but the reason therefor is not clear. It would seem better to make use of the ordinary civil procedure as far as possible.

(7) The provision of the Transvaal Ordinance prohibiting the transfer by agreement of liability for rates from lessor to lessee has been included. The insertion of a provision of this character seems to follow logically from acceptance of the principle of rating "interests." Such a provision is intended to prevent as far as possible the shifting of the burden of rates from the persons who actually enjoy the benefits of ownership, more particularly in the case of owners of property who, under leases for periods in excess of ten years, retain a present interest in the form of ground rents and also possess reversionary rights to the properties concerned (including improvements made by the lessees) at the termination of such leases. In the absence of such a provision the object of providing for the separate rating of interests will be partly defeated. We do not propose that this provision should be made retrospective so as to affect the validity of agreements entered into between lessors and lessees prior to the introduction of this new system based on recognition of separate interests.

(8) Provision has been made for the partial exemption from the burden of rates in the case of land used for agricultural purposes. The claim of agricultural land to some form of relief is recognised in other countries on the ground that the use of large areas of land for agricultural purposes does not create the same need for municipal expenditure as is occasioned by the use of comparatively small lots for building purposes, and that, therefore, the owners of agricultural land do not receive benefits from municipal expenditure in the same proportion to the value of their holdings as those enjoyed by owners of other land in municipal areas. We propose, therefore, that land used exclusively for agricultural purposes, not being less than ten acres in extent, shall be rated upon half its agricultural value. Where, however, such land continues to be used for agricultural purposes when, owing to its situation and suitability for other purposes, added

values accrue, we consider that such land should be taxed on the full amount of such additional values, and provision has been made for rating on this basis in the draft Ordinance. The object of this provision is to prevent the relief given to agricultural land from leading to the holding up of land which is required for building development.

(9) Provision has been made for the valuation of Crown property in respect of which contributions in lieu of rates will be payable, in accordance with the principles laid down in the draft Ordinance. Such valuations are to be dealt with under Rules made by the Governor-in-Council. It is desirable, if possible, that the constitution of the Valuation Courts appointed by local authorities under the Ordinance should be such as will allow the Governor-in-Council to permit the valuations of Crown property to be submitted to such Courts for confirmation. Whatever tribunal may be adopted for the purpose of settling the valuation of Crown property, both the Government (or in the case of Railway property, the Railway Administration) and the local authority concerned should be afforded full opportunity of lodging before such tribunal objections to any proposed valuation.

3. It will be necessary to make special provision in the Ordinance for the adoption of a Valuation Roll for Mombasa Municipality, if such Valuation Roll is compiled prior to the coming into force of the Ordinance.

4. We also append a note by Mr. Shilton on the making of the Valuation Roll, which describes the operation of the draft Ordinance in relation to the valuations of rateable property.

## A BILL

TO ENABLE THE LOCAL GOVERNMENT AUTHORITIES TO  
IMPOSE AND COLLECT RATES.

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

1. This Ordinance may be cited as the Local Government (Rating) Ordinance. Short  
Title.

2. The provisions of this Ordinance shall apply to all Municipalities already established under the Municipal Corporations Ordinance and to all municipalities hereafter established under the Local Government (Municipalities) Ordinance. Cap. 84.

Provided that any rates imposed, prior to the coming into force of this Ordinance, shall be collected and payable as if they were rates imposed under the provisions of this Ordinance.

3. In this Ordinance, unless there is anything repugnant in the subject or context :— Interpreta-  
tion.

“ Agricultural Land ” shall mean arable, mead or pasture land, market gardens, poultry farms, nursery gardens, plantations, and orchards, but shall not include :— (Sec. 3  
Transvaal  
Ordinance).

(a) land occupied as a park together with a house thereon ;

(b) land used as a garden other than as aforesaid ; or

(c) land kept or reserved for the purpose of sport, athletics, or recreation, or used as a racecourse.

“ Improvements on, in or under land,” mean all work actually done or material used on, in or under land by the expenditure of capital or labour by any owner or occupier of any interest in such land, nevertheless in so far only as the effect of such work or material used is to increase the value of the land, and the benefit thereof is unexhausted at the time of valuation ; but shall not include machinery, whether fixed to the soil or not ; nor shall it include work done or material used on or for the benefit of any interest in land by the Crown or by any statutory public body unless such work has been paid for by the contribution of any interest in such land for that purpose. Provided that the payment of rates or taxes shall not be deemed to be a contribution within the meaning of this definition. (Sec. 2.  
Nairobi  
Ordinance).

“ Interest in land ” shall mean and include

(a) any freehold interest in land ; (Sec. 3.  
Transvaal  
Ordinance).

(b) any lease of or right to or concession over land for a period of not less than ten years or for the natural life of any person or which is renewable from time to time at the will of the lessee indefinitely or for periods which together with the first period thereof amount in all to not less than ten years ;

(c) any easement over land ;

(d) any lease of land for less than ten years where any buildings or other improvements in, on or under such land are owned by the lessee.

“ Land ” shall include the value of any improvements thereon, therein, or thereunder.

(Sec. 3,  
Transvaal  
Ordinance).

“ Local Authority ” shall mean a local authority as defined by the Local Government Ordinance.

(Sec. 3,  
Transvaal  
Ordinance).

“ Mayor ” shall mean the mayor or deputy mayor or the Chairman or the deputy chairman of the local authority.

(Sec. 3,  
Transvaal  
Ordinance).

“ Municipality ” shall mean the area or district under the control and jurisdiction of a local authority.

(Sec. 3,  
Transvaal  
Ordinance).

“ Occupier ” shall mean and include any person in actual occupation of rateable property without regard to the title under which he occupies.

(Sec. 2,  
Nairobi  
Ordinance).

“ Owner,” shall in the case of any interest in land defined herein as rateable property mean the person holding such interest.

(Sec. 3,  
Transvaal  
Ordinance).

“ Rateable property ” shall include every interest in land as above defined, save and except

(Sec. 39,  
Nairobi  
Ordinance).

(a) land occupied by buildings used primarily for public worship and by the necessary curtilage ;

(Sec. 39,  
Nairobi  
Ordinance).

(b) any interest in land used for burial or burning grounds in so far as such interest is held for such purposes aforesaid ;

(Sec. 39,  
Nairobi  
Ordinance).

(c) any interest in land used exclusively for the purposes of any charitable or educational institutions supported mainly by endowments or voluntary contributions in so far as such interest is held for such purposes aforesaid ;

(Sec. 39,  
Nairobi  
Ordinance).

(d) any interest in land laid out and used for the purpose of sport or recreation and controlled in accordance with rules approved by the local authority in so far as such interest is held for such purposes aforesaid ; provided that an interest in land used as a recreation ground conducted for profit or as a race-course shall not be entitled to the benefit of this exemption ;

(e) any interest in land held by the Crown.

(Sec. 3,  
Transvaal  
Ordinance).

“ Town Clerk ” and “ Town Treasurer ” shall mean the persons for the time being lawfully acting respectively in the capacities of Town Clerk and Town Treasurer for the municipality.

“ Value of improvements ” in relation to any interest in land shall mean the added value which the improvements give to such interest in land at the date of valuation irrespective of the cost of the improvements ; provided that the added value shall in no case exceed the amount that should reasonably be involved in bringing the site value of the land to its improved value as at the date of valuation, such improved value being the value of such interest in land together with any improvements therein, thereon or thereunder, if valued together as a whole under the provisions of Section 7 of this Ordinance. (Sec. 3,  
Transvaal  
Ordinance).

“ Unimproved value of land ” means the sum which the owners’ estate or interest therein, if unencumbered by any mortgage or other charge thereon, might be expected to realise at the time of valuation if offered for sale on such reasonable terms and conditions as a *bona fide* seller might be expected to impose if the improvements, if any, thereon or appertaining thereto had not been made. (Sec. 2,  
Nairobi  
Ordinance).

The unimproved value of land shall include any value due to any licence, privilege or concession attached to the site for the time being.

4. The local authority shall from time to time, but not less than once in every five years, cause a valuation of all rateable property within the district to be made, provided, however, that should such valuation not be completed until after the expiry of five years from the date of completion of the last preceding valuation, the local authority shall not then impose any rate on any previous valuation but on such valuation when completed ; provided further that such valuation shall not be invalidated by reason of not having been completed within such term of five years. General  
valuation.  
(Sec. 4  
Transvaal  
Ordinance).

The local authority shall by resolution appoint one or more competent persons approved by the Governor to compile such valuation. For the purposes of this Section, the Valuation shall be deemed to be completed on the date the Valuation Roll is signed and certified by the president of the Valuation Court under Section 12 of this Ordinance.

5. Every valuer shall, before entering upon the valuation entrusted to him, make before some Justice of the Peace a solemn declaration in the terms following :— Declaration  
of valuer.

“ I ..... do solemnly and sincerely declare that I will to the best of my skill and knowledge and without favour and prejudice truly and impartially appraise and value all such rateable property as I shall be required to value for the purposes of assessment, (Sec. 5,  
Transvaal  
Ordinance).”

and that I will conscientiously value the same at and for the full and fair value thereof. And I make this solemn declaration conscientiously intending to fulfil the same.

Declared at....this.....day of.....  
Before me.....”

And every such declaration shall be lodged with and preserved by the local authority.

Provisional  
valuation  
roll.

(Sec. 6,  
Transvaal  
Ordinance).

6. The valuer or valuers shall prepare the said valuation (herein referred to as the valuation roll) in writing in such manner as to show to the best of his or their knowledge and opinion :—

- (1) the name and address of the owner ;
- (2) description and situation of the property valued ;
- (3) nature of the interest of the owner ;
- (4) the unimproved value of the land ;
- (5) the value of any improvements.

(Sec. 7,  
Transvaal  
Ordinance).

7. The amount or sum at which the valuer shall value, for the purposes of the valuation roll, any rateable property shall be the capital sum which the same might be expected to realise if offered at the time of valuation for sale on such reasonable terms and conditions as a *bona fide* seller would require, due regard being had not only to such particular rateable property but to other properties of similar class, character, value, position or other comparative factors ; provided that, where the rent reserved under any lease of land for a period of less than ten years represents an annual value which is less than the reasonable annual value of the land let, such lease shall not in any manner be taken into account in valuing any rateable property in the land the subject of any such lease ; and provided further that, where the leases of land for a period of less than ten years is the owner of a building or other improvement in, on or under such land, the value of such building or other improvement as existing at the date of valuation shall be deemed to be the value of the lessee's interest.

(Sec. 8,  
Transvaal  
Ordinance).

8. Notwithstanding anything to the contrary in this Ordinance contained, land, not being less than ten acres in extent, *bona fide* and exclusively used as agricultural land shall be rated upon half its agricultural value ; but, where such land has a value in excess of its agricultural value, it shall also be rated upon the full amount of such excess value.

9. (1) Every valuer provided with written authority signed by the mayor or town clerk shall, for the purpose of making any valuation as aforesaid, have power to enter at all reasonable hours in the daytime into and upon any land or buildings within the municipality, and shall also have power to inspect and make extracts from all registers or other records or any deeds or instruments belonging to or in the custody or possession of any Government official or any person, in which are contained particulars of any rateable property, whether such person is or is not interested in such rateable property.

Valuer to have power of entry and inspection.

(Sec. 9, Transvaal Ordinance).

Any person who shall wilfully obstruct the valuer from exercising the powers conferred on him under this section shall be liable to the penalties in the next succeeding subsection provided.

(2) Every such valuer shall be entitled to call upon the owner or occupier of rateable property for such written particulars in regard to such rateable property as may be necessary for enabling such valuer to make a correct valuation thereof; and any owner or occupier, who shall neglect within fourteen days after being called upon to do so, shall be liable to a penalty not exceeding twenty pounds in respect of each offence, and any person who shall furnish to any valuer a false statement of value, or any other particulars as aforesaid, shall be liable on conviction to a penalty not exceeding fifty pounds in respect of each offence.

10. When the valuation roll has been completed it shall be laid before the local authority and shall lie at its office for public inspection, and any person may at all reasonable times inspect the same and take copies or extracts therefrom. The local authority shall, by notice published in the *Gazette* and in one or more newspapers circulating in the municipality, call upon all persons interested to lodge in writing with the town clerk, within a specified time not less than fourteen days from the first publication of such notice, in the form set forth in the Second Schedule, notice of any objections that they may have in respect of the valuation of any rateable property valued as aforesaid or in respect of the omission therefrom of property alleged to be rateable property, and whether held by the person objecting or by others, or in respect of any other error, omission or misdescription. No person shall be entitled to urge any objections before the Valuation Court hereinafter referred to unless he shall have first lodged such notice of objection as aforesaid.

Inspection of provisional roll objections.

(Sec. 10, Transvaal Ordinance).

Valuation  
court.  
Duties and  
proceedings.

(Sec. 11,  
Transvaal  
Ordinance).

11. (1) After the expiration of the time specified in such notice, the local authority shall appoint a Valuation Court consisting of not less than three persons who may or may not be members of the local authority. Such persons shall, before the first sitting of the Court, appoint a president from among themselves. The town clerk or some other person appointed by the local authority shall act as clerk to the said Court.

(2) Such Court shall thereafter, at meetings duly called by the president or clerk, proceed to consider the valuation roll and the objections made as aforesaid, and shall be entitled to make such alterations or amendments in the valuation roll, either by way of reduction, increase, addition, or omission as to it may seem expedient; provided that no alteration or amendment by way of increase or addition shall be made unless and until the person appearing to be directly affected thereby shall have had at least seven days' previous notice from the clerk of the date of sitting of the Court at which any proposal for such increase or addition will be considered, and such persons so affected may either forward any objections to such increase or addition in writing to the president or clerk before such date or present the same for consideration at such sitting, and the Valuation Court shall duly hear and consider all such objections.

(3) At every sitting of such Court three members personally present shall constitute a quorum and the president thereof, if present, shall preside, and, if absent, the members of the Court present shall elect a person from among themselves to act as president during such absence as aforesaid. All decisions of such Court shall be arrived at by the vote of a majority of the members personally present and, in case of an equality of votes, the president or the member acting as such shall also have a casting vote.

(4) No persons shall sit on the hearing of any matter in which he shall be directly interested or concerned as being primarily liable to pay the rates in question or any part thereof.

(5) In case for any reason there shall be vacancies in the said Court or incapacity to act so that a quorum cannot be formed, the local authority may at once and without any notice appoint other persons temporarily or otherwise to fill up such vacancies or the places of the members incapable of sitting.

(6) The town clerk, by publication in the *Gazette*, and in one or more newspapers circulating in the municipality, shall

give not less than seven days' previous notice of the date fixed for the first sitting of each Court.

(7) At every sitting of such Court the local authority and any person who has lodged any objection to any valuation, and any person the valuation of whose property is objected to or proposed to be increased, or whose property it is proposed to add to the roll, may appear either in person or by advocate.

(8) At every sitting of such Court it shall be competent for the Court to call and examine any witnesses on oath and call for the production of all such papers or documents as it may deem necessary, and every valuer by whom any valuations under consideration shall have been made shall attend such Court and answer on oath all questions which may be put to him by or through the Court in regard thereto.

(9) The said Court shall keep a record of its proceedings and a note of the assessment objection and finding in regard to each objection, and such Court shall cause any deposition taken before it to be taken down in writing and signed by the deponent, and shall authenticate it by the signature of the chairman as having been taken before such Court, and every such deposition so taken down and authenticated shall be deemed and taken to be good evidence in a prosecution for perjury.

12. When the Valuation Court has completed its examination of the valuation roll, and has made such alterations and amendments as it may deem necessary, the president of the Court shall sign and certify the same. He shall further cause an advertisement to be inserted in the *Gazette*, and in one or more newspapers circulating in the municipality, not less than twice within a period of one week, informing all persons interested of the completion thereof, and that the same will become fixed and binding upon all parties concerned who shall not before a date fixed in such notice, not being less than one month from the date of the first publication of the aforesaid advertisement, appeal from the decision of the Valuation Court in manner provided in the next succeeding Section.

Valuation roll.

(Sec. 12, Transvaal Ordinance).

13. (1) It shall be lawful for any person who feels himself aggrieved by the value put upon any property owned or occupied by him to appeal within one month against such valuation from the decision of the Court in the last preceding Section mentioned to the Court of a *first class magistrate* and such last mentioned Court shall inquire into such valuation, and its decision shall be final and conclusive, provided, however, that if any question of law shall arise as to the

(Sec. 13, Transvaal Ordinance).

Right of appeal from decision of Valuation Court.

principle upon which any valuation has been or should be made it shall be lawful for such first class magistrate, instead of himself deciding such question, at the request of the local authority or party objecting, to reserve such question of law for decision by the Supreme Court, and such question shall be stated in the form of a special case and may be argued before and determined by the Supreme Court, and such Court may make such order as to costs as to the Court shall seem fit.

(2) It shall be lawful for the local authority to appeal within one month against the decision of the Valuation Court in respect of any rateable property in the municipality to the Court of a first class magistrate, and such appeal shall be subject to the provision set forth in Sub-Section (1) hereof in respect of the appeals by the owner or occupier of property.

Power to remit rates on rateable property not in existence, to cause rateable property omitted to be valued, and to cause re-valuations

14. Notwithstanding anything in this Ordinance contained it shall be lawful for the local authority from time to time and at any time :—

(a) to remit any rate imposed on any rateable property in any case in which such rateable property has been demolished since the date of the making of the valuation roll ; and in such other cases as may be approved by the Governor ;

(b) to cause any rateable property omitted from the valuation roll or new rateable property to be valued by the valuer appointed as hereinbefore provided, and to cause the current rate to be collected in respect thereof ;

(c) to cause a valuation to be made by such valuer of any rateable property which is sub-divided after the date when the valuation in respect of such property has become final, and to cause the valuation to be apportioned by such valuer according to the subdivisions of the said property, and to cause any rate due in respect thereof to be assessed and collected according to such sub-division ;

(d) to cause a fresh valuation to be made by such valuer of any rateable property which, from any cause particular to such property arising since the last valuation thereof, has materially increased or decreased in value ;

(e) to cause any error appearing in the valuation roll from time to time in force to be corrected by such valuer in any case where some clerical error or some error as to the nature of the interest valued has been made in such roll and to cause any rate due in respect thereof to be collected according to the corrected roll ;

(Sec. 14, Transvaal Ordinance).

(f) where a part only of any rateable property not separately valued in any valuation roll is or may be subject to a special rate under Section 17 of this Ordinance, to cause such valuer to apportion the value of such property appearing in such roll as between the part thereof which is or may be subject to any special rate as aforesaid and the remaining part which is not subject to such special rate ; provided that

(i) upon the making of any such interim valuation the same forms shall be observed and the same proceedings taken as nearly as can be *mutatis mutandis* as are hereinbefore set forth with regard to general valuations, excepting that in the discretion of the local authority the prescribed notices may be served in writing upon the person interested instead of being published as aforesaid ;

(ii) every such valuation, re-valuation, correction and apportionment shall be subject to any objection made thereto at the next succeeding Valuation Court which may be appointed by the local authority under this Ordinance and to the same right of appeal as is provided for in Section 13 ;

(iii) in the case of any property which is added to the roll under the provisions of paragraph (b) hereof or the valuation of which is increased under paragraph (e) hereof if at the next succeeding Valuation Court the value of the said property be fixed at a sum less than that on which the last preceding rate has been levied the owner shall be entitled to a refund of any rate paid by him in excess of that which would have been paid if the rate had been levied on the value as fixed by the said Valuation Court.

15. No valuation contained in any valuation roll framed under this Ordinance, and no rate based thereon, shall be rendered void or be affected by reason of any mistake or variance in the description of any rateable property or in the name of any owner thereof ; and no valuation roll made up and authenticated in terms of this Ordinance shall be capable of being challenged or set aside by reason of any informality.

Valuation roll not to be challenged or set aside. (Sec. 15. Transvaal Ordinance).

16. (1) It shall be lawful for the local authority to impose a rate or rates on the unimproved value of land as appearing in the valuation roll for each and every financial year of such amount as the local authority shall determine (such rate or

rates being hereinafter referred to as the original rate) ; provided that no such original rate exceeding half of one per cent. of the unimproved value of land shall be imposed in any one financial year.

(2) In addition to the original rate it shall be lawful for the local authority to impose a rate or rates on the unimproved value of land as appearing in the valuation roll for each and every financial year of such amount as the local authority shall determine (such rate or rates being hereinafter referred to as the additional rate) ; provided that—

(a) where an improvements rate is levied no such additional rate exceeding one per cent. of the unimproved value of land shall, except as provided in Sub-Section (6) hereof, be imposed for any one financial year ; and

(b) where no improvements rate is levied no such additional rate exceeding one and one-half per cent. of the unimproved value of land shall, except as provided in Sub-Section (6) hereof, be imposed for any one financial year.

(3) No rate shall be imposed upon the value of improvements in any financial year until an original rate of one-half per cent. on the unimproved value of land has been imposed.

(4) Subject to the provisions of Sub-Section (3) hereof, it shall be lawful for the local authority to impose a rate or rates upon the value of improvements as appearing in the valuation roll for each and every financial year of such amount as the local authority shall determine (such rate or rates being hereinafter referred to as the improvements rate) ; provided that the percentage payable on the value of improvements shall not exceed for any one financial year the percentage payable as the additional rate on the unimproved value of land for such financial year, and such improvements rate shall not in any case exceed one per cent. for any one financial year, except as provided in Sub-Section (6) hereof.

(5) The minimum charge for any financial year in respect of any rateable property for rates imposed under this section shall be five shillings.

(6) The Governor-in-Council may, at the request of the local authority, sanction the imposition by such local authority of an additional rate higher than is stipulated in Sub-Section (2) hereof, or of an improvements rate higher than is stipulated in Sub-Section (4) hereof.

17. Notwithstanding anything herein contained, in case any abnormal or extraordinary expenditure shall be incurred by the local authority for any purpose which the local authority is authorised to carry out in respect of some particular area of rateable property over and above expenditure common to the whole municipality, the local authority may determine, subject to the provisions of the next succeeding Section, that such abnormal or extraordinary expenditure shall be in whole or in part a special charge upon the rateable property or some portion thereof within such particular area, to the exclusion of the rest of the municipal area, and fix the amount of the special rate thereon and the persons and times by whom and when the same shall be payable.

Special rates.  
(Sec. 17, Transvaal Ordinance).

18. The following provisions shall apply in respect of any special rate proposed to be levied under the last preceding section :-

Conditions re Special Rates.  
(New section adopted from Sec. 171 Transvaal Local Government Ordinance).

(1) The local authority shall before imposing any such rate—

(a) pass a resolution by a majority of existing Councillors at a meeting of the local authority held not less than fourteen days after notice shall have been given at a meeting of the local authority of an intention to move for the imposition of such rate ;

(b) publish daily in three issues of one or more newspapers circulating in the municipality an advertisement describing shortly the purpose of the expenditure which it is proposed to incur, the area of land which is proposed to be specially rated, and the proportions (if any) according to which it is proposed that such special rates should be imposed, and naming a place where full particulars of the proposed expenditure and of the area proposed to be specially rated may be seen at all reasonable hours.

(2) If any person interested as owner, lessee or occupier of any land proposed to be specially rated, objects to the proposed expenditure or to the imposition of any such special rate, or to the proportion according to which it is proposed to impose the same, or to the exclusion of any other property from the area of land proposed to be specially rated, and serves written notice of such objection on the local authority at any

Conditions  
re Special  
Rates.

(New section  
adopted from  
Sec. 171,  
Transvaal  
Local  
Government  
Ordinance).

time within fourteen days after the last publication of the advertisement mentioned in Sub-Section (1), the Council shall not be entitled to proceed with the imposition of the special rate without the sanction of the Governor, unless such objection be withdrawn.

(3) The Governor may, after making due inquiry, for which purpose he may appoint a person or persons to hold a local investigation, make an order empowering the local authority to proceed with the imposition of the special rate in the manner proposed by the local authority, or subject to such conditions and modifications as he may think fit.

(4) for the purpose of imposing any special rate under the last preceding Section, the local authority shall deduct from the value of the rateable property on which such rate is to be imposed, as appearing in the valuation roll, such part thereof as represents the value of improvements, and shall impose such rate on the value of such property, after deduction as aforesaid, instead of on the full value thereof.

(5) If at any time within the period allowed under Sub-Section (2) of this Section for serving notice of objection on the local authority to the imposition of the special rate, the owners of two-thirds of the rateable property on which it is proposed to impose such special rate (such two-thirds being reckoned by value according to the values on the valuation roll for the time being in force but subject to the deduction in the preceding Sub-Section mentioned) shall sign and cause to be transmitted to the town clerk a petition to the local authority, praying that the proposals for the imposition of special rates set forth in the advertisement with reference thereto, be entirely abandoned, the local authority shall not proceed further therewith but the same forthwith shall be abandoned, and the local authority shall not again initiate proceedings for the imposition of a special rate for the particular purpose in question until after the expiry of a period of six months from the date when such petition for abandonment is received by the town clerk.

(6) if it shall appear that the amount received or to be received by way of special rates imposed to meet expenditure for any purpose is in excess of the amount of such expenditure, the local authority shall refund to

persons who have paid such rate, or remit in favour of persons liable to pay the same, a proportionate part thereof, so that the total amount received or to be received may be approximately equal to such expenditure.

19. Every rate imposed by the local authority shall become due and payable upon a day to be fixed by it, of which day and of the amount of which rate the council shall give at least thirty days' notice by advertisement in the *Gazette* and in a newspaper circulating in the municipality; provided that every rate shall become due and payable within the financial year for which or for part of which it is imposed.

Notice of rates.  
Sec. 24,  
Nairobi  
Ordinance.

20. (1) Whenever the local authority shall have given such notice as aforesaid of the day upon which such rate will become due and payable, it shall be the duty of all persons liable for such rate to pay the amount thereof at the offices of the Council, failing which proceedings may be taken as hereinafter provided.

Payment of rates.  
Sec. 25 (1)  
Nairobi  
Ordinance.

(2) It shall be competent for the local authority to allow discount, not, however, exceeding two-and-a-half per centum, on any rates paid on or before the date on which such rates become due and payable under the last preceding section.

Sec. 25 (2),  
Nairobi  
Ordinance.

(3) The local authority shall be empowered to charge and collect interest on arrear assessment rates at a rate not exceeding one per centum per month.

Sec. 7,  
Transvaal  
Ordinance  
12, 1921.  
(9 per cent.  
per annum.)

21. When an appeal is pending from the decision of a Valuation Court, any rates levied by a local authority after the president of the Valuation Court shall have signed and certified the valuation roll, but before such appeal shall have been determined, shall in respect of any rateable property against the valuation of which such appeal is pending, become due and payable upon such valuation upon the day fixed in terms of Section 19. and, should such appeal result subsequent to the date of the payment of such rate in alteration of the valuation, either by way of increase or decrease, the local authority shall collect or refund the difference as the case may be, together with interest at the rate of six per centum per annum upon the amount so collected or refunded, from the date of payment of the rate to the date of such collection or refund. The provisions of this Section shall apply to any rateable property against the valuation of which an appeal is pending at the date of this Ordinance coming into operation.

Rates payable pending appeal.  
Sec. 19A,  
Transvaal  
Ordinance.

Enforcement  
of payment  
of rates.

Sec. 20,  
Transvaal  
Ordinance.

22. If after the time fixed for the payment of any such rate as aforesaid any person fail to pay any rate due by him, it shall be competent for the local authority to cause a printed or written demand to be made upon such person to pay the amount stated in such demand within fourteen days after service thereof ; and in case any person, who shall have had such demand delivered to him personally or left at his ordinary place of residence or place of business or office, shall make default, it shall be competent for the local authority to apply to the *magistrate* for a summary warrant to recover such rates from the persons liable to pay the same ; which warrant the said *magistrate* shall grant on production of a list of the names and addresses of the persons so in default, and the amount due by them, with a certificate by the town clerk or town treasurer that they have been severally required to make payment of the said rates by notice as aforesaid, and that such rates are due by them and do not exceed the maximum rates fixed by or under this Ordinance ; and every such warrant shall contain every authority and be executed in all respects as though it were a writ of execution issued out of the Court of the *magistrate*, and the *messenger of the court* in executing the same shall conform to such rules and make such charges as are for the time being applicable to writs of execution of such Court as aforesaid.

Recovery of  
rates.

Sec. 21,  
Transvaal  
Ordinance.

23. Notwithstanding the provisions of the last preceding Section, the local authority may at its discretion, after the time fixed for the payment of any such rates as aforesaid, recover from the person in default (without further notice or demand) the amount of the rates due by such person, irrespective of the amount thereof, by action in the Court of the *resident magistrate*, whether the person liable for the same shall be resident within the jurisdiction of such Court or not. In case it shall not be possible to effect service of summons within the limits of the jurisdiction of such Court as aforesaid, then such service shall be effected in such manner as the said Court shall direct.

Proceedings  
against  
persons  
liable for  
rates.

Sec. 22,  
Transvaal  
Ordinance.

24. In case any person liable to pay any rate and who shall be in default as regards payment thereof shall not be resident within the jurisdiction of the Court of the *resident magistrate* of the district, it shall be lawful for the local authority at its option to make the demand referred to in Section 22 hereof upon, or to take proceedings under Section 23 hereof against, any person receiving any rates or profits of the rateable property in respect of which such rate is unpaid, or who would receive the same if such rateable property were let or occupied.

25. When any rate imposed upon any owners of rateable property shall remain unpaid for a period of three months after the date on which such rate shall have been fixed to become due and payable, the local authority may, at any time within twelve months after the imposing of the rate, demand the amount of such rate or any part thereof from any tenant or occupier for the time being of such rateable property, to the extent of any rent due and payable by the tenant at the date of the demand, and on non-payment thereof may, after one month from the date of such demand, recover the same from such tenant or occupier in the same manner as though he were the owner ; and every such tenant or occupier shall be entitled to deduct from any rent or other amount payable by him to such owner or his successors in title, so much as was so paid by or recovered from him, and the production of the receipt for such rates so paid by or recovered from such tenant or occupier shall be a good and sufficient discharge for the amount so paid or recovered as payment of rent or other amount.

Proceedings  
for recovery  
of rates  
unpaid for  
three  
months.  
Sec. 23,  
Transvaal  
Ordinance.

26. In any proceedings to impose or recover rates or consequent on the imposing or recovering of any rates, as well as in all other proceedings under the provisions of this Ordinance, the valuation rolls, and records of the local authority and all entries made therein and extracts or certified copies thereof signed by the Chairman or Town Clerk, and also all copies of any newspaper containing any notice necessary to be proved shall upon production thereof alone be *prima facie* evidence of the imposing of such rate and of the contents thereof without any evidence that the notices required by or other requirements of this Ordinance have been complied with ; provided that it shall be competent for any party to any such proceedings to offer evidence to prove the contrary.

Evidence.  
Sec. 24,  
Transvaal  
Ordinance.

27. The person who is the owner of any rateable property at the date when a rate becomes due and payable in respect of such property under Section Nineteen of this Ordinance shall be liable for payment of the amount of such rate, and in the case of joint owners of rateable property they shall be jointly and severally liable for the rate due thereon ; provided that in the case of the owner being absent from the Colony any person receiving the rent or being in charge or control of such property shall be liable.

Owner liable  
for Rates.  
Sec. 25,  
Transvaal  
Ordinance.

28. Any provision in a contract hereafter entered into whereby any person primarily liable for payment of any rates imposed pursuant to this Ordinance in respect of any rateable property seeks to render any person interested under

Lessee not  
liable for  
Rates of  
Lessor.  
Sec. 26,  
Transvaal  
Ordinance

or subsequent to himself as lessee of such rateable property or any part thereof liable absolutely or conditionally to pay such rates or any part thereof in lieu or stead of himself shall be null and void.

Application  
of Rates.

Sec. 27.

29. The proceeds of the rate or rates levied under this Ordinance shall be applied for and towards such purposes of the Municipality as the local authority shall from time to time think fit.

30. The Nairobi (Rating of Unimproved Site Values) Ordinance is hereby repealed; provided that notwithstanding such repeal any valuation roll in force within the township of Nairobi shall remain of full force and effect for one year after the date of the coming into force of this Ordinance, and any rates imposed by the Municipal Council of Nairobi, within such period of one year but no longer, shall be levied upon the unimproved value of land in the manner provided by the said Nairobi (Rating of Unimproved Site Values) Ordinance and provided also that rates so levied shall be collected and payable as if they were rates imposed under the provisions of this Ordinance.

31. Notwithstanding anything to the contrary contained in this Ordinance, any interest in land held by the Crown which would if it were not so held be rateable property under this Ordinance shall for the purpose of assessing the contributions in lieu of rates payable by the Government of the Colony or the Kenya and Uganda Railway Administration, under the provisions of the Local Government Ordinance, be valued in accordance with the principles laid down in this Ordinance subject to such exceptions and in such manner as may be prescribed by rules made by the Governor in Council.

SCHEDULE.

OBJECTIONS.

Against an entry in the Valuation Roll made up under the provisions of the Local Government (Rating) Ordinance.

Year 19.....

To the Valuation Court of the Municipality (or district of) }

The following entry has been made in the Valuation Roll of the Municipality (or district of) }

Here insert the name of the objector and copy of the entry complained of }

I do hereby object to the said entry and ask that :—

(The objector will here state what entry he considers should be substituted for the above) }

On the following grounds :—

(The objector will here state the reason why he considers the entry should be altered) }

(Signature of objector).

.....day of.....19

VALUATION COURT.

Objection by :

.....  
.....  
.....

SEC.

Decision of Court.

No.

.....day of.....19....

## MAKING OF THE VALUATION ROLL.

## BASIS OF VALUATION.

1. The amount or sum at which the valuer shall value for the purposes of the valuation roll any rateable property shall be the capital sum which the same might be expected to realise if offered at the time of valuation for sale on such reasonable terms and conditions as a *bona fide* seller would require, due regard being had not only to such particular rateable property but to other properties of similar class, character, value, position, or other comparative factors ; provided that, where the rent reserved under any lease of land for a period of less than 10 years represents an annual value which is less than the reasonable annual value of the land let, such lease shall not in any manner be taken into account in valuing any rateable property in the land the subject of any such lease ; and provided, further, that, where the lessee of land for a period of less than ten years is the owner of a building or other improvement in, on or under such land, the value of such building or other improvement as existing at the date of valuation shall be deemed to be the value of the lessee's interest.

## DEFINITIONS.

2. (1) "*Interest in Land.*"
- (i) Any freehold interest in land ;
  - (ii) Any lease of or right to or concession over land for a period of not less than ten years or for the natural life of any person or which is renewable from time to time at the will of the lessee indefinitely or for periods which, together with the first period thereof, amount in all to not less than ten years ;
  - (iii) Any easement over land ;
  - (iv) Any lease of land for less than ten years where any buildings or other improvements in, or under such land are owned by the lessee.
- (2) "*Rateable Property.*"  
—*vide* definition in Rating Ordinance—
- (3) "*Owner.*"  
—*vide* definition in Rating Ordinance—
- (4) "*Unimproved Value of Land*" and "*Improvements on Land*"  
—*vide* definition in Rating Ordinance—

(5) "*Agricultural Land.*"

Shall mean arable, meadow, or pasture land, market gardens, poultry farms, nursery gardens, plantations, and orchards, but shall not include:—

- (a) land occupied as a park, together with a house thereon ;
- (b) land used as a garden other than as aforesaid, or
- (c) land kept or reserved for the purposes of sport, athletics, or recreation or used as a racecourse.

"Land" shall include any buildings or other improvements therein, thereon or thereunder.

3. The system of rating to be adopted may involve the separate valuation of all interests in land improvements, and this should be carried out as follows:—

(1) *Freehold Property.*

(a) Unalienated freehold — valued according to market or selling value.

(b) Freehold interests in alienated land. This includes the right of an owner to receive ground rents under leases and the reversionary rights of such owner. It is difficult to value the reversionary rights to property under a long term lease as it is not known whether the property will have appreciated or not when the lease expires ; and it is unnecessary to take this interest specially into account unless the period of the lease is drawing to an end, under which circumstances the total of the lessee's interest and the capitalized value of ground rental will have fallen far below the real market value of the property. This, however, is a question for the future as practically all leases are of sufficiently recent date to preclude the possibility of depreciation having taken place in leaseholders' interests except for reasons other than the near approach of the termination of such leases. If, however, leaseholders' interests are at any time allowed to fall in value, owing to no arrangements having been made for the renewal of the leases, freeholders' reversionary rights will have to be valued in order to maintain total rateable values at figures representing approximately the real freehold values of property. In the meantime the freehold interests should be valued at the value of the annual amount of ground rents receivable, capitalized at a reasonable rate of interest. The reversionary rights of the owners should be taken into account to some extent by treating the annual revenue, when working out the capital value thereof, as perpetual, and not discounting it over the period of the lease.

(2) *Leasehold Property.*

The following are examples of rateable interests when property is held under leasehold title :

(a) Land sold under leasehold title in which the freehold owner retains an interest in ground rents and reversionary rights at termination of the lease.

*Rateable Interests.*

Freehold owner .. .. Capitalized value of ground rents calculated upon the annual revenue without reference to the period of the lease.

Leasehold owner .. .. Market value of the land as held by the lessee subject to the conditions of the lease.

(b) Land as in example (a) but which is sub-leased where the first leaseholder retains an interest in ground rents and the reversionary rights for the period between the dates of termination of the sub-lease and the original lease.

*Rateable Interests.*

Freehold owner .. .. As in example (a).

First Leaseholder .. .. Capitalized value of ground rents calculated upon the annual revenue as a terminable annuity and any added value due to reversionary rights.

Second Leaseholder .. .. The same as leasehold owner—example (a).

The following examples show the distinction which should be made between leases under which both premium and rental are payable and rental leases under which no premium is payable :—

(c) Land and buildings sold together under leasehold title in which the seller, being a freehold or leasehold owner, retains a rental interest and the reversionary rights; and where the premium paid exceeds the value of the buildings.

*Rateable Interests.*

Seller (freehold or leasehold owner) .. .. The annual revenue should be treated as ground rent and valued as land in the manner shown in examples (a) and (b).

Leaseholder .. .. Market value of land and buildings as held by the lessee subject to the conditions of the lease. The value of the buildings should be deducted from the total value of the lessee's interest to obtain the value of the site on which the lessee is rateable.

(d) Land or land and buildings leased under an ordinary rental lease if the lease falls within the definition of rateable property.

*Rateable Interests :*

Lessor (whether freehold or leasehold owner) .. The market value of the property having regard to the conditions under which it is leased.

Lessee .. .. The lessee possesses no rateable interest unless and until his interest becomes marketable owing to appreciation in value, when he should be rated on the market value. Such rateable interest is an interest in land only, except when the value of buildings appreciates owing to increased cost of construction.

Problems will no doubt arise which are not specially dealt with above, but the principle to be followed in the apportionment of interests on leased property is broadly that the relative interests of the lessor and the lessee should be fixed according to the amount of rental payable, *i.e.*, the higher the rental payable to the lessor in relation to the full value of the property, the greater his rateable interest and the smaller the rateable interest of the lessee will be. It may be found however, that the market or selling value of the lessee's interest will be higher than the proportionate value so arrived at, owing to the existence of a demand for property of the character in question.

The difference between the interest of a freehold owner and a leaseholder in ground rents lies in the fact that the former possesses a reversionary right to the whole value of the property while the interest of the latter terminates with his lease. The freeholder is therefore assessed upon the capitalized value of a perpetual income, but the leaseholder can only be assessed upon the present capital value (at time of valuation) of an annual revenue for a definite term of years.

(3) *Easements over Land.*

Any easement over land should be valued according to its market value, *i.e.*, the value it possesses owing to its use for business or other purposes.

(4) *Licence, privilege or concession attached to Site Value of Land.*

The value of a licence, privilege or concession attached to the site values of land is assessed according to the additional amount over and above the normal value of the land which a purchaser would be prepared to pay for the land owing to the existence of such licence, privilege or concession.

4. In Mombasa difficulty may arise in connection with Makuti Huts, in cases where the owners of the huts are not the owners of the land on which the huts are situated. Such properties will fall under the definition "Interest in Land" (iv) as far as the owners of huts are concerned and should be valued as follows:—

Owner of Land.	Site value.
Lessee (owner of building).	Actual value of building.

5. Crown interests in land and improvements should be valued in order to provide a basis for assessing contributions by the Government in lieu of rates; but Harbour Works and Railway Lines and the land on which they are situated need not be included. "Harbour Works" should be taken to mean all development at the Port exclusive of buildings erected elsewhere than on deep water berths.

6. In valuing "Agricultural Land" according to the definition given, the area of each individual holding should be stated. If such land has a value in addition to its agricultural value by reason of its suitability for building or other purposes, such additional value should be shown separately in the valuation roll.

7. The valuation roll should be prepared in accordance with the form attached hereto.

DISTRICT.....

VALUATION ROLL.

*Specimen.*

Name of Owner.	Address of Owner.	Where situated.	Stand number or subdivision	Description of Property.	Nature of Interest.	Valuation.		Alterations at Valuation Court.		Remarks.
						Site.	Improvements.	Site.	Improvements.	
A ..	20, Main Street ..	Main Street	10	Offices and Shops ..	Freehold	£1,000	£3,000	—	—	
B ..	10, Church Street ..	Main Street	11	Dwelling House ..	Leasehold	£800	£2,000	—	—	
C ..	15, End Street ..	Main Street	12	Vacant .. ..	Freehold	£1,000	—	—	—	
FREEHOLDER'S REVENUE.										
Government	—	—	Various	Annual Revenue of £200 capitalized at 10 per cent.	—	£2,000	—	—	—	

## CHAPTER VI.

## QUESTIONS AFFECTING THE RELATIONS OF MUNICIPAL AUTHORITIES WITH THE KENYA AND UGANDA RAILWAY, AND WITH THE PORT AUTHORITY, MOMBASA.

We think it desirable to devote a special Chapter to discussion of the relations which should exist between Municipal Authorities and the Kenya and Uganda Railway, with its important interests, its large number of employees, and the considerable areas of land under its control. The relations which should exist between the Municipal authority and the Port authority at Mombasa are a kindred subject which can conveniently be dealt with under the same heading. The General Manager of the Kenya and Uganda Railway, who is also at present responsible for the control of the port at Mombasa, gave evidence on these subjects at a sitting of the Commission, at which the additional members appointed, both for the Nairobi and for the Mombasa portions of our enquiry, were present. The questions dealt with concerned :—

- (1) The position of the Railway Administration, with reference to municipal services.
- (2) The application of municipal bye-laws to Railway property.
- (3) The liability of Railway property for rates, and
- (4) The representation of the Railway Administration on municipal bodies.

The following extracts from a Memorandum submitted by Mr. C. L. N. Felling, C.M.G., General Manager of the Kenya and Uganda Railway, relate to questions under heads (1), (3) and (4). The question of the application of municipal bye-laws was also discussed in the course of his evidence. In the case of Mombasa, reference was also made to the relation of the Municipal Authority to the Port Authority.

1. *The extent to which the Railway Administration desires or is prepared to rely on Municipal Authorities for Ordinary Municipal Services.*

WATER AND SANITARY SERVICES.—In townships where water and sanitary services are provided by Local Government Authorities, the Railway at present takes such services from the authorities concerned and pays therefor. The Railway accepts it as sound in principle that it should, as far as practicable, refrain from establishing or maintaining independent water and sanitary services in townships where municipal water and sanitary services exist now or are established in future.

In some townships the Railway has been compelled, in the absence of efficient or sufficiently comprehensive service from town authorities, to employ staff at its own expense to supplement municipal sanitary and conservancy services. The extent to which the Railway will find it necessary to supplement such municipal services in future will depend upon the efficiency and scope of Local Government services.

To secure reasonable consideration of Railway needs, and to discourage any tendency on the part of Railway managers to have independent railway services, I consider it essential for the Railway to be officially represented on Local Government Bodies.

**LIGHT.**—In town areas such as Nairobi and Mombasa, where there is a public electric light and power service, the Railway purchases both light and power from the Company which provides the service. In some other centres the Railway has its own lighting plant. If electric light and power services are undertaken by a Local Government authority, the Railway should accept it as a principle that it must avoid, as far as practicable, the development or maintenance of its own independent light and power manufacturing plant.

**ROADS.**—The Railway has incurred large expenditure on construction and maintenance of roads in railway areas. It is considered that Local Government authorities should be responsible for the construction and maintenance of all public roads, including approaches used by the general public to wharves and stations, but that the Railway should continue to be responsible for the construction and maintenance of other roads in railway or harbour jurisdiction areas required for Railway or harbour purposes, whether in connection with residential quarters or for the Railway or harbour's own internal use.

If any such Railway or port authority road becomes a public thoroughfare, it should be taken over and maintained by the Local Government authority.

Roads inside Railway or port areas which may be used by the public but are not public thoroughfares in the ordinary sense, being used only in connection with Railway or port traffic, should be built and maintained by the Railway; but the way should be left open for agreement from time to time between the Railway and the Local Government authority as to whether any particular road is or is not a public road which should be taken over by the Local Government authority.

**FIRE BRIGADE.**—Fire Brigade services, if provided by Municipalities, should always be taken advantage of by the Railway.

**HOUSING OF NATIVES.**—The Railway should not, except under quite exceptional circumstances, be asked to participate in any Local Government scheme for the housing of native labour, but, both because it is the largest employer of native labour in the country, and because a large proportion of Railway labour must necessarily be housed near its work, the Railway should provide its own native housing, subject, of course, to such sanitary and other Local Government regulations as may be framed in the interests of the health of the community.

## *2. Liability of Railway Property for Rates.*

This is a much more difficult question.

As a matter of principle a Railway should be relieved from taxation to the utmost possible extent. Economic life in a Colony depends on transport, and in Kenya, in the absence of navigable waterways, the Railway is the main artery of transport. Government Railway income depends almost entirely on revenue collected from traffic carried. The greater the burden thrown on the Railway in the matter of expenditure, the higher the rates that must be imposed for the conveyance of passengers and goods. High Railway rates retard inland development. It is essential, in order to procure rapid development, that Railway rates should be as low as possible. To permit of this, Railway working expenditure should be

carefully watched and the Railway should be relieved in every possible way from taxation.

It is reasonable to require a Railway to make some payment for actual services from Local Government authorities ; but State taxation should not be imposed, and Local Government charges against Government Railway Transport, itself provided at cost, should never be more than sufficient to cover the bare cost of services rendered.

In some countries the relief of Government Railways from Municipal or other Local Government taxation has been carried to extremes. Opponents of this system have contended that the local community is thus made to pay to the benefit of the country as a whole ; but the town gains in its own property values as a result of Railway activities, and in the volume of its business in direct ratio to the development of the country by the lowest possible Railway transport charges.

My own view is that there should be no question of Local Government or Municipal taxation of Railway lines, lands, stations, sidings, business buildings, wharves, slips, docks, breakwaters, workshops, and the lines required in connection with the actual work of Railway transport ; but where the Railway is a landlord in the sense of possessing residential property, whether for use by its staff or for letting to the public, or warehouses for hire, the Railway should, if the Government will place it in the same position as the Government itself in respect of land occupied by such residences or warehouses, pay assessment rates in respect of such properties on the same scale as applied to Government properties.

The difficulty with which I am faced, however, is that the Government Railway in this Colony is not in either the same position as the Government or in the position of an ordinary landlord, either in regard to the ownership or the use of property.

In Kenya, all Railway land is vested in the Government, in which respect the position is practically the same as in South Africa, where Railway land is vested in the Governor General in Council, but there is this difference in the matter of land between Government Railways in Kenya and Government Railways in South Africa, that in Kenya the Government has not only re-acquired the ownership of land previously vested in the Railway, but does not permit the Railway to obtain the profits from the sale or lease of land, although it does permit the Railway to incur all expenditure, particularly where large payments are involved ; whereas in South Africa, once land is set aside for Railway purposes, the Railway can, subject to certain safeguards, alienate the land to its own advantage as part of ordinary Railway working.

It is inconceivable that any private Railway Company would have built the Kenya and Uganda Railway without definite arrangements in regard to land, and it is equally inconceivable that any such private company could have been deprived of its land in the manner in which this Railway was deprived of its land by the Government of Kenya. Quite apart from this, however, I know of no Government Railway in any Dominion which is "landless" in the sense that this Railway is.

While, therefore, as a matter of principle I consider that the Railway, in connection with the residential land which it holds at present, should pay assessment or other rates in the same manner as any other landlord in a Local Government area, I must make the proviso that the Railway must, in the matter of Railway lands, be placed in a more satisfactory position.

The proviso applies also to the port area. Port land is generally very valuable, and if a port is to be made to pay for itself, then the Port Authority—Railway or other—must have full power for the development and alienation, temporarily or permanently, of port lands to its own profit. It is impossible to separate port land administration from port working without increasing port charges to an extent which is not in the interests of a country, and without stultifying port warehouse and other development.

The Port Commission of Enquiry has dealt with this matter.

As appears from this Memorandum, Mr. Felling was in favour, speaking generally, of a policy of co-operation between the Railway Administration and Municipal Authorities.

2. We will now deal with the questions arising under the different heads, as stated above.

(1) *Municipal Services*: We think there is no doubt that it is desirable that the Railway Administration should take advantage of services provided by Municipal Authorities such as water, sanitary services, sewerage—instead of providing separate services for its own needs. In towns which are important as Railway centres, and where the Railway has a number of resident employees, the maintenance by the Railway Administration of independent services of this character for its Railway premises and for the residential quarters of its employees would involve a serious encroachment on the field which should be open to municipal enterprise, and, by reduction of the scale on which municipal services are conducted, and of the revenue derivable from such services, would be calculated to have a bad effect both on the efficiency of such services, and on the financial position of the Municipal Authority. If Municipal services are so managed as to reach a reasonable standard of efficiency, and if arrangements are made by the Municipal Authorities to meet the special requirements of Railway premises and Railway employees, participation by the Railway Administration in municipal services ought to be to the advantage both of the Railway Administration and of the inhabitants of the town concerned, whose interests the Municipal Authority represents. From Mr. Felling's Memorandum and evidence it is apparent that his general policy is in accordance with this view. It appears, however, that hitherto in Nairobi the Railway Administration has to some extent provided its own sanitary service, and that in Mombasa it at present maintains a separate sanitary service both for its own premises and employees and for the port premises. With reference to the position in Mombasa, Mr. Felling stated that he sees no reason why the present arrangement of the Railway having its separate sanitary service should be maintained, "if the Municipality can give reasonable services, especially in connection with the sewerage scheme." We do not think it necessary to go into details with regard to the present position in Nairobi, where, owing to some difficulty experienced on the part of the Municipal Authorities in complying

with special Railway requirements, separate sanitary services are maintained by the Railway for their native landhies.

Where the Railway Administration accepts municipal services it should of course pay the Municipal Authority for the services rendered. The memorandum quoted above suggests that the charges for municipal services rendered by the Municipal Authority to the Railway Administration should not be more than sufficient to cover the bare cost of such services. Mr. Felling was asked whether this suggestion was to be taken to mean merely that Municipal Authorities should not make a profit on services of the character mentioned, or whether his view was that the charges to the Railway Administration should be on the basis of a special tariff more favourable than that which applied to the ordinary private individual. His reply on this point was as follows :—

“ The Railway tenant is just like any other tenant and should pay for the services to his premises ; but I also have in mind the large area covered by Railway properties such as Nairobi Station and Mombasa Port ; in those cases the payment should not be more than the actual cost and should be based on a bulk agreement with the Municipal Authority to pay them a lump sum. That is generally done elsewhere. In South Africa, for instance, they pay a fixed sum, which ought to be based on actual cost. I think the Railway, which after all is a Government transport system, should come into these municipal schemes, but that the Municipality should not look to the Railway as a source of revenue. The very fact of the Railway coming in, and thus making it a bigger scheme, would mean a profit. If you take a town served by a Railway and make out a sewerage scheme the fact that the Railway comes in means a cheaper service, as the scheme is larger and spreads over more people. I do not ask for preferential treatment for the railway staff, but for the business part of the Railway properties. As a matter of fact I think you will find that in practice the Municipality will always co-operate ; it would find it very expensive to embark upon the schemes alone.”

The general principle with regard to payment for municipal services is that such payments should be uniform, and sufficient to cover the cost of the services for the entire area served, with not more than a reasonable margin over and above such cost, and that differentiation should not be made according to the difference in cost involved in serving particular properties, owing to the special circumstances of their character or situation. We think that this principle should be generally adhered to so that a fair average charge may be made for the whole municipal area, including railway premises. It must, however, be recognised that the Railway Administration, as representing a public undertaking, and as occupier of Crown Land, to which municipal bye-laws do not, strictly speaking, apply, retains in the last resort as distinguished from the ordinary occupier of private premises, freedom to make its own bargain. Where, therefore, it can be clearly shown that there are special circumstances, apart from the mere accident of geographical situation, which have the effect of reducing the cost of a service rendered to Railway premises, as compared with

similar services rendered to other premises, we think that a municipal authority would be justified in making special terms for the Railway, provided that the application of such terms is confined to premises actually used for Railway purposes, as distinct from residential premises occupied by Railway employees.

3. (2) *Bye-laws.* The question of bye-laws was discussed with Mr. Felling, mainly in connection with the application of building bye-laws to railway premises, and the submission to the Municipal Authority, in accordance with such bye-laws, of plans for proposed new Railway buildings. In the case of Nairobi it appeared that it had at one time been the practice of the Railway Administration to submit to the Municipal Authority the plans of proposed new buildings, but difficulties arose and the practice is no longer consistently maintained. The following extracts from Mr. Felling's evidence will show his view of the position :—

“ I understand my Engineer to say that the difficulty in connection with the submission of plans is the great delay which takes place. It is not a question of lodging plans with the Town Engineer's Department as in other towns ; the Council as a whole attempt to deal with the matter and take several months to make up their minds, before the Town Engineer proceeds to give instructions for the work to go ahead.

“ Under a Municipality the Railway would always be prepared to lodge plans—provided the Town Engineer in consultation with the Railway Engineer dealt with them without delay. But I should strongly object to any system of control by the general Council on technical matters.

“ THE CHAIRMAN : In theory, I think, in most cases the Council has to approve of the building, but acts in all normal cases on the advice of its Technical Officers ?

“ A. Generally speaking, certain standards are laid down ; the plans are lodged and authority comes through very quickly, or otherwise as the case may be.

“ . . . “ I should like to put it in this way that the Railway has no objection to the furnishing of plans provided they are dealt with reasonably quickly, and I further contend that the Railway should not be used as an object for experiments. I emphasize that because there is a tendency, on the part of Medical Authorities and others, to suggest ideas, which are to be tried on the Railway company.

“ . . . If the Railway requires to put up buildings the matter should be regarded as being of sufficient urgency to be given preference, otherwise the public must suffer.

“ MR. PANDYA : You would not insist upon the same urgency in the case of houses for Railway officials and things of that kind ?

“ A. No ; unless the conditions are such that we must get them done very quickly, which is not usually the case.

“ THE CHAIRMAN : I think, Mr. Felling, that if the Railway adopts this procedure of submitting plans, it must be assured that they will be dealt with in a businesslike way ? ”

“ A. Yes.”

It appears therefore that in principle Mr. Felling on behalf of the Railway Administration is prepared to recognise an obligation to

submit plans of proposed new buildings to Municipal Authorities in order that such authorities may have due notice of the Railway proposals which may affect the provision of municipal services to be made for the area concerned, and may satisfy themselves as to the compliance of such plans with the requirements of their bye-laws.

4. (3) *Rating of Railway Property.*

The general question of liability for rates in the case of Crown Land has already been dealt with in Chapter IV., in connection with the question of Government contribution to Municipal revenue, but the question of the position of Railway property was reserved for special consideration.

Before proceeding to discuss this question, it is necessary to note that, as indicated in Mr. Felling's memorandum, the question of the liability for rates is, from the point of view of the Railway Administration, made more difficult owing to the obscurity of the existing position with regard to Railway land. There appears to be some room for doubt both as to what land is recognised as Railway land, and as to what are the rights of the Railway Administration in respect of such land. A similar difficulty exists with regard to the land used or reserved for port purposes at Mombasa. These questions are, however, outside the scope of this Commission, and we do not wish to be understood as expressing any opinion with regard to them; our function is confined in this connection to considering what should be the liability on account of rates, or a contribution in lieu of rates, in respect of Crown Land, recognised as used or reserved for Railway or port purposes.

All land in Kenya used for the purposes of the Kenya and Uganda Railway is Crown Land, but, although the Railway itself is a Government undertaking, the Kenya Government is not the only Government concerned; the transport system for which the Railway Administration is responsible extends to and serves other territories besides Kenya, separate provision has been made by law for its management and control, and its finances are kept entirely distinct from the general budget of the Colony.

5. In stating our general proposals with regard to the payment of a contribution in lieu of rates on Crown Land used for Government purposes, we have assumed that Crown Land, used or reserved for railway purposes, will be dealt with on the same basis, but we now have to consider whether such an arrangement is justified so far as the Railway Administration is concerned; either in respect of all lands and premises used or recognised as railway lands, or premises; or in respect of particular parts of such lands or premises.

To some extent, the same considerations apply to Crown Land whether used or reserved for Government purposes, or used or reserved for railway purposes.

The general problem to be solved in dealing with the question of Government contribution in lieu of rates is the problem of making a fair division of burdens between the country as a whole and the particular area for which municipal government is provided—in other words, the problem of making a fair settlement as between the tax payer and the rate payer. The railway is a government undertaking of a national character ; the situation with regard to the Kenya and Uganda Railway is to some extent complicated by the consideration that it is an undertaking in which the interests of other territories besides Kenya are involved ; but, putting aside for the moment this factor, it may be said that, as in the case of an ordinary Government undertaking, the question of a Government contribution in respect of local rates is a question of division of burdens between members of the local community in their capacity of rate-payers, and of the inhabitants of the country as a whole in their capacity as tax-payers, so, in the case of a Government Railway undertaking, the question of a railway contribution in respect of local rates is a question between members of the local community in their capacity as rate-payers, and the inhabitants of the country as a whole in their capacity as freight payers.

The position of the Railway Administration is, however, differentiated from the position of the Government by the fact that, whereas the Government has a general responsibility for the administration and welfare of the country, the responsibility of the Railway Administration is restricted to providing transport services only. It is in essence a commercial undertaking, conducted under Government authority in the public interest with the object of providing efficient transport services at minimum cost. As a commercial undertaking it may be called upon to bear charges from which Government with its wider obligations should be exempt ; but, on the other hand, as a commercial undertaking, it cannot be called on to make general contributions for public purposes outside the sphere of its own immediate interests. It cannot, for instance, be called upon to grant a subsidy to help a municipal authority through with its task, over and above the amount of its own fair share of liability as owner or occupier of property and as recipient of municipal services.

Hitherto no distinction in principle has been made in Nairobi between Crown Land used or reserved for railway purposes and Crown Land used or reserved for Government purposes in assessing the contribution in lieu of rates. Such contribution has been paid in respect of Crown Land occupied for railway purposes as well as in respect of Crown Land occupied for Government purposes. We understand that the practice has been in each case to include as occupied land the actual sites of buildings together with a reasonable amount of land for use in connection with such buildings. In the case of land used for railway purposes, the whole of such land has

been regarded as occupied land, and therefore as liable for a contribution in lieu of rates, with the exception of the running track outside the station area. The whole of the station area itself, including goods sheds and marshalling yards, and the portion of the railway track actually included within the limits of the station have, we understand, been reckoned in for the purpose of assessing the contribution.

6. The proposals made by Mr. Felling with regard to the liability of the Railway Administration for rates in respect of Crown Land used or reserved for railway purposes are stated in his memorandum. Briefly they are to the effect that the only land in respect of which the Railway Administration should be called upon for payment of rates, or a contribution in lieu of rates, is :—

- (1) Land used for residential purposes by its staff, or
- (2) Land let to the public either for residential purposes or for commercial purposes, such as warehouses.

In the course of his evidence, Mr. Felling developed his views further on this question, as shown in the following extracts :—

“ THE CHAIRMAN : . . . The result of your suggestion would be that the railway would be specially exempt ?

“ MR. FELLING : Yes.

“ Q. If such an exemption is to be given, should it apply to any premises beyond those directly required for transportation work of the railway ; is there not a distinction between a railway station and a headquarters railway office ?

“ A. The railway offices are part and parcel of the railway machine ; I do not see how you can draw a line.

“ Q. The central work-shops and offices may be situated anywhere in a sense ; the ordinary railway premises are bound down to the area where the railway has to serve. There is a certain choice as regards the opening of shops and offices ?

“ A. That is no more reason why the municipality should tax them.

“ Q. The point I want you to realise is this : that the area that is fortunate enough to have these things will be paying for the privilege if it exempts their sites.

“ A. It should pay for that privilege.

“ Q. Why should it pay for that privilege more than for the privilege of having within its limits any business ?

“ A. This is the only transport business of the country ; it is not a business run by private enterprise for profit, it is run for the people of the country by the Government of the country.

“ Q. The problem we have to try and solve is the problem of what is a fair division of the burden between the country as a whole and the particular area for which Municipal Government is being provided. As a public service it is entitled to some consideration, but there is the question of the basis on which you can apportion the tax between the owners of land in Nairobi and the rest of the country ?

“ A. Quite.

“ Q. In the case of Mombasa you have a peculiar situation, because you have this Town Planning Scheme which involves large expenditure ; the idea has been that the expense of that Scheme should be met by a rate on unimproved site value on land in the Island ; if eventually the Railway

and Port share is to be as much as one quarter, and a considerable part of that is to be used for railway premises and port premises, it will be very difficult to raise the necessary funds ?

“ A. That is quite a different proposition. If you have a Town Planning Scheme for the benefit of the whole town, then, if the railway comes in, it should pay.

“ Q. In the case of the Improvement Scheme at Mombasa you think the railway should pay ?

“ A. It is a fair proposition.

“ Q. Is not the principle rather wider as a matter of fact ? Take the present condition of things in Nairobi. We are told by the M.O.H. that Nairobi's health requires some large drainage scheme and presumably a considerable sum of money will be required ; the Railway, through its employees, will benefit from the carrying out of such drainage scheme ; if they have to be carried out at the expense of the rates, should not the Railway contribute in respect of premises used by its employees during the day-time ?

“ A. No, I think what should happen would be this : In order to carry out this big scheme a considerable amount is necessary in railway areas, and I think that there the Railway should join with the Municipality and bear the cost of improvements in the Railway area.

“ Q. You think you might apportion work of that kind ?

“ A. It is special work.

“ Q. Is it not rather difficult to distinguish between different areas ? There may be a particularly bad bit near the Railway, but your employees live in other parts of the town and they are affected very much by the conditions which exist in the other swamps, apart from any particular swamp ?

“ A. These Railway employees pay tenants' rates, and if they are landlords they pay landlords' rates, if there are any.

“ Q. The ordinary man requires a house to live in and a place to work in ; the Railway employee would be liable in respect of the premises where he lived, but not where he worked, therefore the proportion would be less ?

“ A. It is not a question of employees so much as that I say that the Railway, as a business, should be exempt, not the Railway employee.

“ Q. There is also this consideration that, where the Railway is a large property owner or occupier of premises, if the premises held by the Railway were to be exempt, the financial resources might be diminished ?

“ A. You mean premises outside the Railway premises reserved for residential sites ?

“ Q. If you cut out of a Municipal area a substantial slice owing to its being used for Railway services, then the finances of the Municipality may be affected to such a degree that the works necessary may become not a practical policy ?

“ A. I do not think it would be. If the Railway does reserve a large slice of land against possible requirements in the future, that may be so ; that is quite a different issue. As far as vacant land is concerned, if the Railway, as a land-owner itself, has to reserve land against future requirements, then the Railway must be the owner and must be in the same position as any other owner of land, not in the position it is to-day ; it is not allowed to use any of the land for its own profit. If I reserve, say 20, residential sites for the future, it is perfectly justifiable to say to the Railway that it must take those sites at once and the Railway can say in reply, ' then they

become our property'; we cannot be placed in the position of landlord in the matter of taxation and not in other ways.

" Q. That raises a question which this Commission has not to decide ? "

7. From these extracts it will be seen that Mr. Felling was prepared to extend the liability for rates to land reserved by the Railway for future residential or commercial requirements, provided that the rights of the Railway Administration in respect of such land were placed on a satisfactory basis; and further that, for the purpose of providing the amount required to meet the annual charges on the expenditure involved in the Mombasa town planning and improvement schemes, he was prepared to accept the principle of payment of a contribution by the Railway Administration equivalent to rates on the unimproved value of all land used for railway purposes, levied on the same basis as rates levied for this purpose on land privately owned, on the ground that that scheme was for the benefit of the whole town, and that the railway, which would share in the benefits, should contribute its share of the cost. Speaking generally, however, the result of Mr. Felling's proposals, apart from the recognition of a special claim in the case of Mombasa, would be to exempt considerable portions of the land used or reserved for railway purposes from any contribution in lieu of rates, and thus, in effect, to cause the liability, which, if accepted by the Railway Administration, would have to be met out of the revenue derived from freight charges, to be transferred from the general body of freight payers to the local bodies of rate-payers in the different municipal areas concerned. It might be contended that, if this plan were adopted universally, the cost of transport would be cheapened and the extra burden on local rates would be so distributed that no one would suffer, owing to the fact that the Railway Administration necessarily owns or occupies land and premises for transport purposes in all parts of the country, but the answer to this contention must be:—

(1) That the areas subject to local rates at present only form a very small part of the entire country;

(2) That while the railway local establishments are distributed over all parts of its system, its central establishments are concentrated in comparatively few areas; and

(3) That the Kenya and Uganda Railway serves other territories besides Kenya Colony, so that in questions affecting freight payers individuals and communities beyond the limits of Kenya are involved.

In accordance with the general principles laid down in dealing with the question of Government contribution in lieu of rates, we consider that, so far as rates are levied on the unimproved value of land, a contribution should be made in respect of Crown land used or reserved for railway purposes equivalent to the rates which would be payable on such land if it were not Crown land, subject, however,

to the exception of the railway running track itself—including so much ground on either side of the actual line as may be reasonably covered by this term, and sidings and marshalling yards which form adjuncts to the track for the general purposes of railway traffic. The reasons for the exemption of the railway running track as above defined are that :—

(1) There is an analogy between land required for ordinary roads and land required for railroads ; and

(2) Any valuation of the strip of land occupied by the railway line itself would be on a purely artificial basis unless its character as a site for railway purposes were taken into account.

It may be contended that, if an exemption is granted to the railway running track, such exemption should be extended to station premises, goods sheds, etc., which are necessarily required for use in immediate connection with such track. We do not consider, however, that the proposed exemption should extend to such premises. All such premises require to be served by roads for the purpose of enabling the Railway to obtain its traffic, and it is, therefore, reasonable that the Railway, as a commercial undertaking, should bear its share of contribution towards the cost of providing such roads. Further, it is not easy to make any clear distinction between premises required for local railway operations as distinct from the premises required for purposes of central organisation and control.

8. We now come to the question of the liability of the Railway Administration for contribution in respect of rates levied on improvements, and in this case we think that a distinction must be made between Crown land used for railway purposes and Crown land used for Government purposes. The Railway, as already stated, is to be regarded primarily as a commercial undertaking, conducted under Government authority for the public benefit, and normally the buildings erected for its purposes are of the same character as those which a private commercial concern would provide for the purpose of conducting the same undertaking. The reasons given in Chapter IV for not making Government buildings liable for payment of rates levied on improvements do not, therefore, generally speaking, apply to railway buildings ; and we propose that, where a rate is levied on improvements, such rate should normally be paid in respect of railway improvements, again excluding the line itself, on the same basis as applies to improvements on private property ; but, where buildings of a specially costly character are erected for railway purposes in particular centres, so that they may, by their appearance, contribute to the dignity and importance of the towns in which they are situate, special arrangements for partial exemption of such buildings from any improvement rate should, we think, be made by agreement.

9. While we propose that the Railway Administration should normally be regarded as liable for payment of rates on improvements,

where such rates are levied, we propose that in another respect a differentiation should be made between the position of the Government and the Railway Administration which will tend to reduce the amount which the latter can be called upon to pay. We do not consider that the Railway Administration should be called upon for an extra contribution such as we have proposed should be payable under present circumstances in respect of Crown Land generally where rates are levied on improvements. (See para. 5 of Part IV. of Chapter IV.). The railway as a commercial concern cannot, we think, be fairly called upon to make a contribution on this special basis, which, as things are to-day, would, if the railway claim to considerable areas of vacant land is recognised, be substantially in excess of the amount which it could be called upon to pay on the basis applicable to private owners. The difference between the railway contribution, as assessed on the basis of the value of the Crown land used or reserved for railway purposes, and of the improvements on such land, and the total contribution payable in respect of such land on the basis generally applicable to Crown Land, in accordance with the recommendation made in Chapter IV., will, therefore, fall to be paid by Government as part of the contribution granted for the purpose of promoting the success of municipal government.

10. The principles laid down with regard to contribution in lieu of rates, in respect of Crown Land used or reserved for railway purposes, and improvements on such land, should also apply to Crown Land used or reserved for Port purposes, and to improvements on such land, subject to the proviso that harbour works should be treated in the same way as railway lines, and that such works (*i.e.*, deep water berths and buildings erected thereon), and the land actually occupied by such works, should, therefore, be exempted from any contribution in respect of rates.

11. (4) *Representation*.—As appears from Mr. Fellings' memorandum, he considers it essential for the Railway to be officially represented on local Government bodies, in order to secure reasonable consideration of railway needs, and to discourage any tendency on the part of railway managers to have independent railway services. He amplified his views on this question in the following passages of his evidence:—

“THE CHAIRMAN: In connection with this general question of the relations between the Railway and the Municipality, you suggest that the Railway should be represented on local governing bodies?”

“MR. FELLING: Yes; for this reason—that I cannot see how, in this country, you are going to get reasonable attention paid to Railway interests without it. I think the Railway should be represented in order that these matters should be brought to the notice of the Municipality.

“Q. You think it would be the best way of securing good relations between them—that without direct representation you would have to deal with these matters by correspondence?”

"A. Yes—and, of course, the man I would put there would be the Railway District Engineer which would certainly help things along.

"Q. I do not know whether in Mombasa you think there should be separate representation for Port interests as distinct from Railway representation ?

"A. If the Port Authority became separate I think it would be absolutely necessary—they will have a very big engineering staff.

"MR. PANDYA : On what special basis should that qualification be, that the Railway, as such, should be represented ?

"MR. FELLING : On two issues, either the Railway area will deal with its own affairs, or the Railway comes into the Municipal scheme and the Railway should be represented on the Municipal Council if the system is to work ; if it is not represented, what you will find will be that the General Managers of the Railway will drift back to the old system of doing things on their own.

"MR. FELLING : If you are going to start municipal schemes and bring in the Railway, they will fail unless the Railway is represented, because, if the Railway cannot get any attention from the Municipality, it will go back to the present state of affairs.

"THE CHAIRMAN : In order to make the matter clear, your view is that the Railway and Port are of a special character with special needs which should be kept in view of a Municipal Authority and that the best way of seeing that those needs are dealt with is to have direct representation on the municipal body itself ?

"MR. FELLING : Yes, it is probably owing to lack of direct representation that the problem exists."

We think that, in accordance with Mr. Felling's suggestion, representation should be accorded to the Railway Administration on municipal bodies, and that the Railway Administration should, therefore, be entitled to appoint one of its officers as a member of the Municipal Council of Nairobi, and to make a similar appointment to the Municipal Board of Mombasa. In our opinion the presence of Railway representatives should be of great assistance in securing effective co-operation between these municipal bodies and the Railway Administration on a number of questions in which the Railway interests are concerned ; and, if the officers appointed as railway representatives do not take too limited a view of their functions, they may be expected to make a valuable contribution to the general work of the municipal bodies of which they are members ; we suggest that they should not regard themselves as appointed solely for the purpose of protecting railway interests, but should take their share in the general work of the Council or Board.

12. For the same reasons as are given above in the case of the railway, we consider that at Mombasa the Port Authority should be granted representation on the Municipal Board, and should be entitled to appoint one of its officers as a member of that Board.

## CHAPTER VII.

## PUBLIC HEALTH ADMINISTRATION.

Under the Public Health Ordinance, Chapter 124, "Local Authority" is defined as meaning "the council of any Municipality constituted under the Municipal Corporations Ordinance, or any Ordinance substituted therefor. Any Committee or other authority appointed under the Townships Ordinance for the purposes of the said Ordinance; and the district commissioner of the district under his jurisdiction and the medical officer for such district when available (not being within the district of any existing municipal authority) shall be the local authority for such district."

"Medical Officer of Health" is defined as meaning "the Principal Medical Officer, the Chief Sanitation Officer, the Medical Officer of Health appointed to a municipality or district" and as including "any Government medical officer, district surgeon, any medical practitioner, or any member of the subordinate medical staff appointed by the Principal Medical Officer to act as such in any district."

2. Certain sections of the Ordinance (*vide* sections 14—116 and 117) purport to impose on the "local authority" complete responsibility for public health administration in its district or area, but many of its detailed provisions are inconsistent with the recognition of this general obligation; while some provisions confer certain powers on the local authority alone, others confer powers on the medical officer of health alone, and others confer the same powers on both the local authority and the medical officer of health, thus apparently enabling either to act independently of the other. An important instance of the same powers being conferred on both is found in sections 119 and 120, which enable either the local authority or the medical officer of health to serve a notice requiring the removal of a nuisance, and to take proceedings against the person concerned if the requirements of the notice are not complied with.

3. Nairobi, being the only town to-day which has a municipal council, affords at present the only important example of a municipal body which acts as local authority under the Public Health Ordinance.

The Municipal Council, however, does not itself appoint a Medical Officer of Health. The post of Medical Officer of Health for Nairobi is held by a Government officer, and the entire cost of the Health Department, including his salary and the salaries of sanitary inspectors, who are also Government and not municipal employees, is provided out of Government funds.

The Municipal Council, though styled the local authority under the Public Health Ordinance, is not in fact made fully responsible for the public health of Nairobi; the Government Medical Officer of Health has under the law a considerable measure of independent authority which he can exercise without deferring to the view of the

Municipal Council, and, though in many matters he consults the Public Health Committee of the Council, he is not obliged to take orders from the Council; on the other hand, apart from the staff placed at his disposal by Government, he has no resources available for the purpose of securing an improvement in the cleanliness and sanitary conditions of Nairobi save such as the Council is prepared to provide out of Municipal funds. The result is that there is a division of responsibility in regard to public health matters which is fatal to efficient administration.

4. The question of public health administration in Nairobi was considered in 1915 by a Committee consisting partly of Government officials and partly of representatives of the Municipal Committee as then constituted. The following is an extract from the report of that Committee:—"Hitherto the sanitary control in Nairobi has, in practice, if not in theory, been dual with the natural result that there has been imperfect co-operation and a loss of administrative efficiency. It is obvious that no settlement of the present difficulty is worth considering which does not provide for the substitution of single for dual control in sanitary matters." The Committee were unanimous in recognising that a Municipal Corporation ought to have its own sanitary advisers and exercise full sanitary control, subject only to the right of intervention by Government; but, pending the institution of full municipal government in Nairobi, its members differed as to whether single control should be vested in the Sanitation Department or in the existing Municipal Committee. The establishment of the Municipal Corporation in 1919, and its appointment as "local authority" under the Public Health Ordinance have unfortunately not resulted in "the substitution of single for dual control," which the Committee advocated. The provisions of the Public Health Ordinance, coupled with the arrangement whereby Government provides and pays the entire cost of the Public Health staff, have perpetuated the system of dual control by two authorities, each in some degree dependent on the other, whose mutual responsibilities have never been clearly defined.

5. The following extracts from the evidence given with regard to the existing position in Nairobi explain the way in which the present system has been worked, the difficulties which result from divided responsibility, and the reasons which render a change desirable:—

The following is an extract from a Memorandum furnished by Dr. F. J. Carlyle Johnstone, who, from 1924 until August, 1926, was Medical Officer of Health, Nairobi:—

"Under present arrangements practically all public health and sanitary matters are dealt with by the Health Office staff with little direct reference to the Local Authority. It is, however, customary for the Medical Officer of Health to bring before the Municipal Council any major schemes for the improvement of the public health which he may consider necessary. Attention is generally called to these matters in the first instance in the form

of a memorandum addressed to the Council. The subject is then discussed by the Town-planning and Public Health Committee and its recommendations are forwarded to the full Council. In regard to a number of Health improvement schemes the support of the Council has been obtained, necessary works have been undertaken and specific legislation framed. In other instances the recommendations of the Health Officer have either not been accepted or the Council, after expressing its agreement with the schemes, has not proceeded to carry them out. Shortage of staff, scarcity of labour and lack of funds are the reasons generally put forward as an excuse, to which may be added lack of organization and absence of real interest in the matter. There has been a tendency of late on the part of the Government to give local authorities more control over public health affairs and a fuller realisation by the Local Authority in Nairobi of its responsibilities and legal obligations in this respect is most desirable. . . .”

“While acting in a general advisory capacity to the Corporation, the Medical Officer of Health is responsible for the abatement of sanitary nuisances and all sanitary notices are prepared and signed by him without reference to the Council. The question of referring such notices to the Council before service has been considered, but at the present stage of Municipal Government in Nairobi this is probably unnecessary and undesirable. When sanitary notices are not complied with, prosecutions are undertaken by the Medical Officer of Health . . . .”

“All building plans received by the Corporation are scrutinised by the Medical Officer of Health in regard to general sanitation and compliance with health bye-laws. A large percentage of the plans, which are subjected to a very strict scrutiny, has to be returned to the Architect for amendment. This has given rise to a good deal of friction and is largely due to the absence of specific legislation and the difficulty of interpretation of a number of bye-laws, many of which are antiquated and ambiguous. Controversy for the most part has centred itself on the question of drainage, but the adoption of the new drainage regulations which are now nearing completion should relieve the situation to a great extent. . . .”

6. The question of procedure was further discussed, when Dr. Johnstone gave evidence before us, and we quote an extract of that evidence :—

“DR. J. : The abatement of all nuisances, which is a large part of our work, we deal with direct and seldom refer those matters to the Corporation. At home, I think it is usual to refer such matters to the Local Authority, and I think the Town Clerk signs notices, etc.

“THE CHAIRMAN : The ordinary arrangement in England would be that the Local Authority must authorise what is done in its name and, further, the Medical Officer of Health cannot act unless he gets authority from the Corporation.

“DR. J. : I think that is the position, but here we act on our own authority, and only major schemes and matters are referred to the Local Authority.

“THE CHAIRMAN : You have maintained your independent action ; though there is a Local Authority, you have still exercised the authority that you have as Medical Officer of Health without referring matters to the Council ?

“DR. J. : Yes. The Ordinance says that the Local Authority or the Medical Officer of Health may or shall do so and so, but in practice it is usually the Medical Officer of Health.

" THE CHAIRMAN : To what extent do you report to the Public Health Committee ?

" DR. J. : If there is a serious outbreak of infectious disease it is reported to the Town Clerk, the Corporation and the Public Health Committee, by whom it is discussed. The Public Health Committee normally meets only once a month, but if it is an urgent matter they meet to discuss measures of prevention to be adopted to prevent the spread of disease, etc.

" THE CHAIRMAN : Do you not report to the Committee what your staff is doing ?

" DR. J. : There is no system of reports, except the Annual Report.

" THE CHAIRMAN : You complain that they do not take enough interest, but what strikes me is that Public Health work is carried on independently and they are not made to feel their responsibility ; your staff is paid for by Government, why should the Council take an interest ?

" DR. J. : I think we ought to report more fully than we do ; I think a system of monthly reports in addition to the Annual Report should be started.

" THE CHAIRMAN : There seems to be a lack of contact between the Council and a large portion of your work.

" DR. J. : Yes, that is probably so."

Dr. Johnstone himself complained of the lack of interest taken in public health affairs :—

" THE CHAIRMAN : You complain that there is an absence of real interest and, if people have to take action, that is an effective way of promoting interest, and that particular means is at present rather lacking ?

" DR. J. : What I really meant by lack of interest was that I feel that the Local Authority itself ought to think of such measures as the Housing Improvement scheme, the prevention of Malaria, and things like that. In almost every instance those matters have been brought to their notice by Health Boards. They should think of these things themselves.

" THE CHAIRMAN : All these things are linked up ?

" DR. J. : Yes.

" THE CHAIRMAN : If the members of the Council were responsible for seeing that the law was enforced, they would begin to realise existing conditions and the changes that are necessary ?

" DR. J. : That is quite possible."

7. The following is an extract from a memorandum submitted to us by the present Medical Officer of Health, Dr. R. N. Hunter :—

" Until comparatively recently, all matters of sanitation and public health were regarded as the responsibility of the Medical Department, which acted not only in an advisory capacity, but also as an executive authority. Medical Officers of Health were given executive powers under Township Rules and exercised active supervision of the cutting of grass, digging of drains, removal of refuse and night soil, the burial of the dead, etc. Ordinances such as ' The Infectious Diseases Ordinance ' gave them extensive powers and duties of an executive nature. Latterly the position has undergone some change, the duties of the Medical Officer of Health tending to become more advisory and less executive, and as a result many of the functions at one time exercised by him are now undertaken by the Local Authority.

" Recent legislation has tended in the same direction, ' The Public Health Ordinance, Chapter 124,' and more particularly ' The Milk and Dairies Regulations, 1925,' are examples, but even under the former,

although the executive power is vested mainly in the Local Authority, yet the Medical Officer of Health still retains executive functions in several matters dealt with by this Ordinance. In these latter, then, there exist two statutory executive authorities—the Local Authority and the Medical Officer of Health—and, as each is independent of the other, there is always likely to arise a condition of dual control and lack of co-ordination in matters sanitary and, where the Medical Officer of Health exercises the powers given him, other than by direction of his Council, he and not the Local Authority is the responsible authority. For this reason, if for no other, the present position is far from satisfactory. . . .”

“The existing system is difficult to reconcile with any attempt to extend local government along the accepted lines. In Nairobi, at present, Central Government maintains from general funds the complete cost of a health organization the effect of which is directed mainly towards the improvement of conditions within the Municipal area of Nairobi, for and on behalf of the residents of that place. The costs of this organization and their activities should more correctly be borne by the ratepayers of Nairobi, Government making some contribution thereto in respect of the benefits derived by the general population of the country. To state that the expenditure involved is more than can be borne by Municipal funds is merely to demonstrate the need for a revision of the financial basis in order to enable Municipal revenue to meet those charges which it may correctly be called upon to bear.

“Another matter for consideration is the question of responsibility for the sanitary condition of a Municipal area. It is essential that the responsibility for the public health in the area of a Local Authority should devolve upon that authority and the public which it represents. It is for them to demand the maintenance of a satisfactory standard, to press for sanitary reform and to initiate schemes by which the public health may be improved. It is for the Medical Officer of Health merely to call the attention of the Local Authority to matters requiring improvement and to advise as to how this may best be attained—here his responsibility should end.

“It is impossible to imagine how, under present circumstances, the public and Local Authority can appreciate the responsibility for public health which is rightly theirs and which is laid upon them by existing legislation. While Government undertakes the duty of supplying a Health Office staff and organization for a town, it is but natural that the Local Authority and the public should consider that the public health is a matter to be maintained and paid for by Government. Such an attitude on the part of the public is fatal to sanitary progress.”

8. Dr. Hunter's memorandum contains the following further remarks on the difficulties resulting from the present system of divided control:—

“The administrative difficulties pertaining to the present system are to be noted. The hand of Government in the control of local authorities, in so far as sanitation is concerned, is weakened rather than strengthened by the fact that the Medical Officer of Health is a Government official, for the Local Authority cannot be held responsible for any mistake which it may make acting on the advice of the Medical Officer of Health. On the other hand, the Local Authority cannot be assured that the advice they receive from the Medical Officer of Health is not directed more by the general policy of the Government in regard to the country at large rather than by the special conditions pertaining to their area. Lastly, the Medical

Officer of Health is in the difficult position of endeavouring to serve two distinct bodies—his Local Authority, and Government through his Department—the policies of the two possibly widely divergent.”

9. The points dealt with in Dr. Hunter’s memorandum were further developed in the course of his evidence, from which the following extracts may be quoted :—

“ DR. H. : They (the Public Health Committee of the Nairobi Corporation) look upon it from the point of view that the Medical Officer of Health is himself responsible for sanitation in Nairobi and do not realise that the responsibility is theirs ; that is my feeling.

“ THE CHAIRMAN : You mean that, though they alone have the means to carry out sanitation and scavenging services, the fact that the Medical Officer of Health is the Government officer leads to failure on their part to realise their full responsibility ?

“ DR. H. : They look upon Mosquitoes as being the mosquitoes of the Medical Officer of Health and not of the public.

“ THE CHAIRMAN : Where they are found on private premises it is the job of the Medical Officer of Health to warn the people concerned, but, where they are produced by failure on the part of the Council’s own Department, then they are and should be regarded as the Corporation’s mosquitoes ?

“ DR. H. : Quite.”

“ DR. H. : I do not think it would make any change in the efficiency of the administration at once, but ultimately I think it would tend to make it more efficient.

“ THE CHAIRMAN : After all the works that have to be carried out and the services that have to be rendered, in order to be productive of public health, have to be carried out by the Corporation, and you think responsibility would have a stimulating effect on them and on the public ? ”

“ DR. H. : Yes.

“ THE CHAIRMAN : The Corporation is the representative of the public and, when we talk of putting responsibility on the Corporation, we really mean putting it ultimately on the public ?

“ DR. H. : Yes.

“ THE CHAIRMAN : So you think that in the long run this is the best way of securing efficient administration ?

“ DR. H. : Yes.

“ THE CHAIRMAN : As against that, it may be suggested that to subject the Medical Officer of Health, who is an expert, to the control of a body of laymen, who may not be filled with enthusiasm about public health, may involve hampering the work of the Medical Officer of Health ; he may want to do things which the Corporation, if he becomes their officer, may not be willing to let him do ?

“ DR. H. : There is that, but I think it is less than the corresponding advantages.

“ THE CHAIRMAN : You think that is a risk that must be taken ?

“ DR. H. : I think so.

“ THE CHAIRMAN : And if the Corporation is successful in obtaining the services of the right type of officer, he and the Public Health Committee will together be able to evolve a satisfactory policy for Nairobi ? You are not afraid that there may be difficulties and the Medical Officer of Health, if he is a man of the right qualifications, will find himself crippled ?

“ Dr. H. : It is a risk which must be taken wherever you have local government, and generally it works fairly satisfactorily.

“ THE CHAIRMAN : On the other hand, the Medical Officer of Health, who is an officer of the Corporation, feels more obliged to carry his Corporation and his public with him in what he is doing and, in order to make his work really effective, he must be able to do that ?

“ DR. H. : Yes.”

10. *Mombasa*.—In Mombasa the local authority under the Public Health Ordinance consists of the Resident Commissioner and the Medical Officer of Health. The District Committee has, however, acted as an advisory body in relation to public health. The following are extracts from a Memorandum submitted by Dr. de Boer, Medical Officer of Health :—

“ In order to awaken interest in local affairs amongst the population, the District Committee as it exists to-day was created with advisory powers, and a study of the history of this institution will show that this committee, since its formation, has shown a progressive interest in the affairs of the town, and has extended the scope of its discussions.

“ Unfortunately, up to the present, this Committee has been given no executive powers and hence its discussions have been mainly critical of Government policy. Criticism at all times is valuable and therefore this Committee has served and is serving a useful purpose. That its powers and influence for good in local affairs will be very great with executive powers, there is no reason to doubt.

“ In Mombasa it is only a very small section of the population who possess what might be called ‘ a public health conscience,’ and this, in the main, would appear to be due to their dependence on Government action in all matters which usually pertain to a local Government, although it must be admitted that religion, custom, habits and ignorance all bear their share. A measure of local self government would, however, tend to counteract or remedy conditions.” . . .

“ One of the biggest responsibilities of the local authority will be the Public Health, and practically everything they do will have some bearing on it.”

“ In a new country such as this it is suggested that the internal administration of the department dealing with a question such as public health, which is of vital importance not only to a local authority but to the country generally, should remain as far as possible under the central administration to insure an universal policy throughout the country.

“ The policy of Central Government control will not prevent the local responsible authority from exercising due control over the workings of this local department and all that will be necessary at any time, if *they are not satisfied that due care is being exercised* in carrying out of any rules or duties enforced by them, will be a submission of their case to Government, who will, it is presumed, inquire into the complaint and take action as required and render them every assistance.

“ The Medical Officer of Health of Mombasa to all intents and purposes will be a servant of the responsible local authority, although a member of the State Medical Service paid from Central Government votes and under the control of the Deputy Director of Sanitary Services.” . . .

“ It is possible at some future date that the responsible local authority may feel called on to take full responsibility for its health office staff. It is suggested that the time is not the present. Before full control is asked

for, partial payment of the services of the Medical Officer of Health and his Staff might be considered, and this in a few years, it is suggested, might be done."

II. It will be seen from these extracts that Dr. de Boer was not in favour of immediate transfer of responsibility for public health administration to any new municipal authority proposed for Mombasa, though he contemplated such a transfer as a possible future development.

At the same time the evidence given by Dr. de Boer furnished further illustrations of the difficulties which must exist as long as a municipal body is recognised as having only a partial and undefined share of executive authority in regard to public health administration.

"THE CHAIRMAN: To what extent do you contemplate that the M.O.H. or any member of his staff would be under the orders of the new authority?"

"DR. DE BOER: They would carry out the regulations made by the Local Authority.

"THE CHAIRMAN: You say that you yourself were M.O.H. in Nairobi? When was that?"

"DR. DE B.: Just before I came here—in 1924.

"THE CHAIRMAN: In Nairobi, how was the enforcement of sanitary regulations effected?"

"DR. DE B.: There was a Public Health Sub-Committee which met once a month.

THE CHAIRMAN: "What sort of report did you make to that body?"

DR. DE B.: "I submitted no definite report to them. I was present at every meeting and prepared to answer any questions. I only submitted an Annual Report to my Chief, but was prepared to give any reports they asked for. They only asked once—when we had an epidemic of plague. I then sent in weekly reports.

"THE CHAIRMAN: What share had they in your work?"

"DR. DE B.: I did everything in connection with the Public Health Ordinance dealing with nuisances, etc., under the powers given me. They could ask me questions and if anything was not satisfactory in connection with the work, they could ask me to submit a report thereon.

"THE CHAIRMAN: What would have been the position if they had asked you to prosecute the people in this district for the nuisances they were causing, or not to prosecute the people you were worrying?"

"DR. DE B.: They never interfered.

"THE CHAIRMAN: I am looking at this Public Health Ordinance and trying to see how the functions under that Ordinance are divided between the M.O.H. and the Local Authority. It is not very easy to see the reasons for conferring certain powers on the M.O.H. I see that, under Section 119 of this Ordinance, regarding powers for serving notices and prosecuting before a magistrate, that these were conferred either on the M.O.H. or the Local Authority. Do you think the M.O.H. should continue to exercise these powers on his own if he is under a municipal authority?"

" DR. DE B. : It would be more satisfactory if the Local Authority took over the responsibility and the M.O.H. drew attention to the nuisances occurring. The practice so far has been for the Local Authority, if necessary, to draw the attention of the M.O.H. to any nuisances, and for him to take action.

" THE CHAIRMAN : If you went round Mombasa to-day and prosecuted everybody who caused a nuisance, you would give occupation to the Courts for a long time to come ?

" DR. DE B. : Yes, I should.

" THE CHAIRMAN : We must be content to progress by degrees. These Health Laws and Bye-Laws confer very wide powers. If you used the powers in a wholesale way you would have to bring a number of people before the Courts and cause a considerable amount of agitation ? Who settles the pace at which you are to go and the localities to which you are to give special attention ?

" DR. DE B. : So far, no special parts require attention. Things are discussed between me, the D.D.S.S. and the District Committee.

" THE CHAIRMAN : Supposing the Council take a strong line about some particular class of nuisance, as, for instance, mosquitoes ? Apparently peculiar powers are conferred on you by the Ordinance in this respect ?

" DR. DE B. : If I tried to carry out the regulations thoroughly, 90 per cent. of the population would be prosecuted.

" THE CHAIRMAN : Supposing the Municipality were not satisfied with regard to mosquito prevention and wanted to tighten up administration of the laws, you might say that you must have extra Sanitary Inspectors to deal with the problem. The Local Authority would apply to Nairobi for these extra men, but Nairobi might say that if Mombasa wanted to clear away mosquitoes, the Mombasa people must pay. Would your Department tell you that you could have the inspectors you desired ?

" DR. DE B. : I presume that they would refer to the Central Authority.

" THE CHAIRMAN : The question would be whether the Central Government would incur the expenditure. Would this not defeat the whole object of giving the people a Municipality ?

" DR. DE B. : If an impasse arose the Local Authority might appoint additional staff temporarily."

12. In our opinion the evidence above quoted in regard to Nairobi and Mombasa shows clearly the necessity for making a change in the existing system of public health administration in municipal areas. The object of this change should be to clear away, so far as possible, the difficulties and uncertainties of dual control and divided responsibility. Where a municipal body becomes the local authority for public health purposes, it should accept full responsibility for local public health administration ; until a municipal body is ready to accept such responsibility, the executive authority in respect to public health administration should be vested in a Government officer, and the municipal body, apart from carrying out conservancy and scavenging services, should be recognised as having only advisory authority.

We propose therefore :—

(1) that full responsibility for public health administration in its area should be transferred to the Municipal Council of Nairobi, subject to conditions to be laid down by law as to the staff to be maintained, the contributions towards the cost of such staff to be made from central funds, and the exercise of powers of supervision by a central authority ;

(2) that provision should be made for a similar transfer of responsibility to any Municipal Board, where circumstances justify the change ;

(3) that until a municipal body becomes the Public Health Authority for its area the district administrative officer should be recognised as the public health authority ; and

(4) that a change should be made in the position of the Medical Officer of Health (whether a municipal or Government officer) so that he may no longer exercise an independent executive authority of his own (except possibly for certain strictly limited purposes, *e.g.* in connection with infectious diseases), but may be recognised as the responsible adviser on public health questions to the local authority and as its executive officer for the purposes of carrying out inspections and controlling its inspection staff.

13. We append to this Chapter an extract from Dr. Hunter's Memorandum. dealing with the question of the control which should be exercised in matters of public health over local authorities by a central authority. We think that provision of the character suggested in this Memorandum should be made. We propose that the proportion of the salaries of the Medical Officers of Health and Sanitary Inspectors to be paid from Central Government funds should be one-half.

The provision with regard to the tenure of office of Medical Officers of Health and Sanitary Inspectors should be modelled on Section 12 (4) of the Public Health Act, 1919, of the Union of South Africa, which runs as follows :—

“ SECT. 12 (4). Subject to the provisions of any law or regulations made under a law dealing with retirement on grounds of ill-health or on reaching a prescribed age, no Medical Officer of Health of a local authority whether appointed before or after the commencement of this Act shall, without his own consent, be removed from his office, or have his salary or emoluments reduced until the Minister has notified the local authority of his approval ; provided that any local authority may suspend any such Medical Officer of Health from the duties or emoluments of his office for gross incapacity, neglect or misconduct, pending the sanction of the Minister as to his dismissal, and in the event of such

sanction being granted, the said Medical Officer of Health shall be deemed to have been removed from office from the date of such suspension."

14. Until a Municipal Board is ready to become the Public Health Authority for its area, the administrative officer of the district (*i.e.* the District or Resident Commissioner), who would himself according to our proposals act as such authority, should consult the Board as fully as possible on all public health questions; the Board itself will necessarily be the executive authority for carrying out conservancy and scavenging services, and should in that capacity assist the administrative officer in securing improvement of sanitary conditions. Until the Board itself assumes the duties of Public Health Authority under the Ordinance, it will, we think, be essential, in order to secure effective co-operation, that the administrative officer should be the Chairman of the Board.

15. In the case of Mombasa, we think that the importance of the work with which the Municipal Board will necessarily be entrusted from the start, and the close connection between public health control and the other activities which it will have to undertake, render it expedient that it should at once become the Public Health Authority for its area.

The fact that the District Committee has now for some years taken an active part as an advisory body in regard to township affairs, and that members of that Committee have also, in their capacity as members of the Town Planning Authority, taken a share in the preparation of the town planning scheme, affords some guarantee that a new municipal body, constituted on the lines proposed, will include men who have had experience in dealing with public health questions, and that it will, therefore, be in a better position for assuming responsibility for Public Health Administration than a Board established for an area where there has not been any previous public body with a similar record.

16. We have received from Dr. Paterson, Deputy Director of Sanitary Services, a note of amendments of the Public Health Ordinance which he suggests with a view to providing for the transfer of full responsibility for Public Health Administration to municipal authorities in certain areas, and also a memorandum on administrative and financial arrangements which such a transfer would involve.

Our proposals as stated above are consistent in general lines with the suggestions made in these documents, which form Annexures to our Report, but we have not attempted to deal in detail with the question of amendments to existing legislation.

17. The following Estimates of the probable annual cost of providing Municipal Health Offices in Nairobi and Mombasa, have been supplied by the Deputy Director of Sanitary Services :—

(a) *Nairobi.*

Salaries, Allowances and Passages :—	£	£
Medical Officer .. .. .	1,225	
Senior Sanitary Inspector .. .. .	765	
5 Sanitary Inspectors .. .. .	2,825	
	<hr/>	4,815
Health Visitor .. .. .		390
*Transport, Infectious Diseases, Clerical Staff, Contingencies, etc. .. .. .		1,500
		<hr/>
		6,705
<i>Less</i> refund of one-half of the Salaries, etc., of Medical Officer of Health and Inspectors .. .. .		2,407
		<hr/>
		<u>£4,298</u>

(b) *Mombasa.*

Salaries, Allowances and Passages :—	£	£
Medical Officer .. .. .	1,225	
Senior Sanitary Inspector .. .. .	765	
4 Sanitary Inspectors .. .. .	2,260	
Sub-Assistant Surgeon .. .. .	300	
	<hr/>	4,550
Health Visitor .. .. .		390
*Transport, Infectious Diseases, and Contingencies .. .. .		1,200
		<hr/>
		6,140
<i>Less</i> refund of one-half of the Salaries, etc., of Medical Officer of Health and Inspectors .. .. .		2,275
		<hr/>
		<u>£3,865</u>

This expenditure does not include any allowance for Office Rent.

\* N.B.—The heading “ Infectious Diseases ” is, we understand, intended to cover payment by the Council of expenditure incurred in connection with outbreaks of infectious diseases within the municipal area, *e.g.*, costs in connection with quarantine measures ; isolation of contacts ; and costs of hospital treatment in certain cases. The amount of such expenditure in any given year is, of course, difficult to estimate. A suggestion has been made in Chapter IV that such expenditure should be shared between Government and the Municipal Authority on a £ for £ basis.

## EXTRACT FROM MEMORANDUM SUBMITTED BY DR. R. N. HUNTER.

“ Control in matters of public health is exercised over local authorities in England by the Ministry of Health in two ways : first, by the allocation of grants-in-aid in respect to salaries of Health Officers and approved schemes for various services, and, secondly, by legislation which gives the Ministry authority over the appointment and duties of health officers.

It would be necessary in Kenya to introduce legislation which would deal with these matters on the lines of the Local Government Acts and the various Sanitary Officers' orders in England. This legislation would, among other things :—

(1) Require every Local Authority of Municipal status to appoint a Medical Officer of Health and such number of Sanitary Inspectors, and other staff, as Government shall require.

(2) State the proportion of the salary of these officers which shall be paid from central funds.

(3) State the procedure to be followed in the appointment of such officers and the manner in which such appointments must be subject to approval by Government.

(4) Lay down conditions of appointment, tenure of office, salaries and duties of Health Officers.

(5) State the requirements of Government with regard to reports to be furnished by these officers and by the Local Authority.

(6) Provide for grants-in-aid of approved services undertaken by the Local Authority.

(7) Provide for inspection of the public health activities of the Local Authority.

The guidance and direction of local authorities in public health, and in all matters of local government, should be in the hands of an officer or department of Government with considerable knowledge of such matters and experienced in dealing with local authorities. Such a department would contain or co-ordinate the various other departments which deal largely with matters of local Government and would endeavour to formulate a uniform progressive policy for the direction of, and the adoption by, local authorities. In matters of public health such would be essential should local authorities assume control of this activity, it is scarcely less necessary now.

An efficient central authority for Local Government, given the powers outlined above, should be in a position adequately to control and guide the efforts of local authorities and to safeguard the public health. That such is the case in England there can be no doubt, and there would appear to be no evidence to suggest that any other result will be experienced in Kenya.

The question of infectious diseases hospitals which are administered by Medical Officers of Health turns upon the general hospitalisation policy for municipal areas. Until this matter is settled it would be premature to deal with infectious diseases hospitals in particular. In passing, it should be noted that a considerable number of patients admitted to the Infectious Diseases Hospital, Nairobi, are cases drawn from without the municipal area.

The Child Welfare work and Venereal Disease treatment centres, which are carried on by the Health Office staff, again call for consideration in regard to the clinical activities of the Medical Department in general, and need not be allowed to confuse the issue with regard to the control of the purely administrative side of public health work, which is the subject of this memorandum. These matters may later become municipal activities ; in the meantime their future may be left in abeyance.”

## CHAPTER VIII.

## NATIVE AFFAIRS.

Section 43 of the Municipal Corporations Ordinance makes the following provision with regard to powers of a Municipal Council to deal with natives in its area :—

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

Provision is also contained in Section 48 of the Ordinance enabling the Council to make bye-laws on various subjects affecting natives :—

“ 48. (55) Regulating the use of public streets by natives and regulating or prohibiting the carrying by them of sticks, knives, spears or other weapons.

“ (56) Regulating, suppressing and charging fees for native dances, ngomas and nautches.

“ (57) Regulating the housing of natives by their employers.

“ (58) Regulating and licensing wash boys and native labourers other than those employed in industrial concerns or domestic service.

“ (59) Regulating the proper carrying out of the provisions of section forty-three for the effectual supervision of native locations.

“ (60) Regulating the charges to be made for the occupation of buildings and the use of locations as provided in section forty-three.

“ (61) Regulating the issuing of passes to and the carrying of passes by natives in the municipality, and for the fixing of charges payable by natives for passes, not exceeding a maximum to be approved by the Governor in Council.

The provision at present made in Nairobi for dealing with native locations and native housing has been described in Chapter I. It will be observed that Section 43 of the Municipal Corporations Ordinance above quoted confers powers on a Council with regard to establishing locations and erecting buildings for native occupation, but does not impose on a Council any definite obligation to provide locations and housing accommodation for the natives in its area

2. The Senior Commissioner is appointed to serve as a member of the Municipal Council in Nairobi with a special view to the safeguarding of native interests, and it is contemplated that the official members of Municipal Boards should also be recognised as having a special duty in regard to the work of such bodies in connection with native administration ; but it is not proposed under present circumstances to give any direct representation on municipal bodies to the native population. It is, therefore, desirable that some further provision should be made in local government legislation defining the responsibilities of a municipal body for native administration, and recognising the special interest of the Government in securing the due fulfilment of such responsibilities.

3. Our attention has been called to the provisions of the Native (Urban Areas) Act, 1923, of the Union of South Africa, which contains very full provisions with regard to natives in urban areas, framed for the purpose of improving and regulating their ingress into such areas. This Act provides *inter alia* that it shall be the duty of an urban local authority to make adequate and suitable provision in the form of native locations, native villages and hostels, for the needs of natives ordinarily employed within its area, and enables the Minister of Native Affairs to take steps to enforce this obligation where a local authority fails to comply with it. Further, the Act enables a local authority to require every employer of more than twenty-five natives, and any employer of natives on work of a temporary nature within its area, to provide housing accommodation for the natives in his employment in a location or native hostel or elsewhere subject to the local authority's approval. The Act also makes provision for giving powers to local authorities to control the ingress of natives into urban areas, and to exclude from such areas natives who are habitually unemployed or who are of bad character.

4. With regard to finance, the Act provides that each local authority shall open and keep an account, to be called the " Native Revenue Account," into which are to be paid all revenues derived from locations, native villages, or native hostels, or from native pass or registration fees, certain fines paid to the local authority in respect of contravention of bye-laws affecting natives, and also any monies derived by the local authority from the sale of kaffir beer. The " Native Revenue Account " is made chargeable with all services rendered by the local authority in respect of native locations, native villages or native hostels under its control, and other services certified by the Minister to be services rendered for the benefit of native residents, but the native revenue fund may not be diverted to other purposes. The Act further provides for the appointment by the local authority of officers for the management of any location, native village, or native hostel within its area, who are to be persons licensed by the Minister for Native Affairs for the purpose ;

and for the inspection, by officers appointed by the Minister for Native Affairs, of native locations, native villages or hostels. It also makes provision for the establishment of a Native Advisory Board for every native location or native village under the control of an urban authority.

We think that provisions of a similar character to those briefly described above should be included in Kenya local government legislation. It will be noted that the South African Act, while imposing upon local authorities responsibility for making adequate provision for the accommodation of natives within their areas, also makes provision for controlling the entry of natives into these areas, and excluding undesirable characters. There is a necessary connection between these two sets of provisions. A municipal body which is responsible for providing locations and housing for natives within its area must be protected from having its obligations made unduly onerous owing to the presence in its area of natives who have no legitimate reason for remaining there. The provisions of the Municipal Corporations Ordinance already quoted conferred certain powers on Municipal Councils to make bye-laws on this subject, and we understand that the Municipal Council of Nairobi has recently found it necessary to exercise this power. Effective and judicious control of the native population within its area under bye-laws dealing with this subject will involve a serious increase in the responsibility of the municipal body for native administration.

5. With regard to the financial provisions referred to above, it should be noted that under the Native Liquor Ordinance (Cap. 133), under which a municipal brewery and canteen have been established in the Pumwani location of Nairobi, provision is made (Section 30), for enabling the Governor-in-Council to make rules providing that all profits from the sale of native intoxicating liquor shall be expended "in such ways and on such projects on behalf of the natives resident in the area controlled by such authority as may to the Governor seem best and expedient." We think that, under the new arrangement proposed with regard to a Native Revenue Account, future profits made on such undertakings should be paid into that account, and should be available for general purposes in connection with native administration, subject to such control as may be considered necessary for the protection of native interests, similar to that for which provision is made in the South African Act.

6. It may also be noted that, with the approval of the Chief Native Commissioner, and of the Senior Commissioner, a local Native Advisory Council has been formed recently in the Pumwani location, consisting of twenty-one members from eleven different tribes. The objects of the formation of this body, as stated by Mr. Silvester, the Acting District Commissioner, who presided over it as Chairman at the outset, were:—"the airing of legitimate native grievances; the affording

of a means of communication between the natives on the one hand and Government and the Municipality on the other ; and the general betterment of conditions in the location by co-operation between different tribal elements." Mr. Silvester stated that this Council had so far proved successful, and that he hoped to extend its membership to include the natives of the other settlements of Nairobi. This Council appears to serve the purposes of a Native Advisory Board, such as is provided for in the South African Act. If provision is made for the establishment of such Boards, we do not think that it will be necessary, in the first stage of their existence, to impose upon them any definite statutory functions, provided it is understood that they are to serve the purposes indicated in Mr. Silvester's Memorandum.

7. We append to this Chapter a Memorandum which we have received from the Chief Native Commissioner, on the subject of natives in urban areas. It will be seen that the views expressed by Mr. Maxwell are in general accord with the proposals outlined above. Mr. Maxwell, however, makes the definite suggestion that, in order to secure an experienced adviser to conduct a Municipal Native Affairs Department, and to form a definite liaison between Government and the urban authority, in respect of native administration, in the case of Nairobi, at any rate, a special administrative officer should be seconded to the Municipality as Municipal Native Affairs Officer, and adds a list of the duties which, in his opinion, should be entrusted to such an officer. As already mentioned, the Government has for some time past assisted the Municipal Council of Nairobi in its native administration by deputing the District Commissioner to keep in touch with this branch of the Council's work, and to act as adviser of the Committee directly concerned. We think that Mr. Maxwell's proposal for a further development of these arrangements should be adopted in order to enable the Council to discharge the increased responsibilities which our proposals involve. It appears to us that the duties which such an officer will be required to perform will be sufficient to occupy the whole of his time, and that he should be formally seconded to the municipal service for a definite period in order to ensure continuity. We think that both the Government and the Municipal Council should make some contribution towards providing his salary, so that the whole burden of such salary may not fall on the Native Revenue Fund.

8. It must be recognised that conditions in Mombasa with regard to native administration differ substantially from those of Nairobi and of other towns for which it is proposed to establish Municipal Boards. In Mombasa there is at present no separate Native quarter ; there are a number of native landowners, and considerable portions of the old town, and of other parts of the island, are occupied by native huts. It would, therefore, clearly be inappropriate, in the case of Mombasa, to provide for the exercise of the general power

conferred upon Municipal Corporations by Section 43 of the Ordinance quoted above to "compel all natives residing in the Municipality, except such as are employed as domestic servants and are lodged on the premises of their employers, or such as are exempted by the Governor, to reside within locations." It is, however, contemplated under the Town Planning Scheme that provision will have to be made by Government or by the Municipal Authority in the near future for native accommodation. Two areas have, we understand, been set apart for this purpose, of which one is assigned for a Swahili village and the other for a casual labour location. We understand that the term "casual labour" refers mainly to up-country natives who come to Mombasa to work as day labourers, more especially to meet the requirements of shipping at the Port.

9. While, therefore, a distinction must be made between Mombasa and Nairobi in regard to the application of the provisions of Section 43 above quoted, in other respects the proposals which we have made should, we think, be regarded as applicable in principle to Mombasa, subject to minor qualifications. For instance, in so far as the Native Revenue Account is concerned, provision should be made, when the proposed Swahili village and labour location are established, that special accounts should be kept of all revenue derived from these areas, and that such revenue should be applied exclusively for the benefit of the natives in those areas. The question of controlling the ingress of natives into Mombasa Island has, we are informed, been the subject of serious consideration by the Resident Commissioner owing to the difficulties already experienced in dealing, both from the sanitary as well as from the general administrative point of view, with a large floating native population. Proposals have been made that up-country natives coming to Mombasa shall be subject to special regulations which will require them to report to the Resident Commissioner and obtain special permits to reside in the town, unless they are in continuous employment or are licensed as casual labourers. The administration of such regulations should eventually be entrusted to the Municipal Board, as the authority which will become responsible for making any provision required for native housing accommodation. So long as the Resident Commissioner is himself Chairman of the Municipal Board it will, we think, be unnecessary to provide a special Native Affairs Officer on the lines proposed in the case of Nairobi but, when the Municipal Board ceases to have an official Chairman, the adoption of the same course would, we believe, be advisable in Mombasa.

10. While Mr. Phadke agrees generally with the proposals contained in this Chapter, he wishes it to be understood that such agreement does not imply that he approves of the policy of a Municipal Authority conducting a beershop for natives, to which he is opposed.

## MEMORANDUM ON NATIVES IN URBAN AREAS.

By G. V. MAXWELL, Chief Native Commissioner.

I understand that an expression of my views is desired as to the degree of responsibility which should be undertaken by Urban Authorities in respect of natives in urban areas, the measure of control which should be exercised over the ingress of natives into such areas, or their residence therein, and the manner in which Municipal activities in relation to native affairs should be co-ordinated with those of the Central Government.

*Municipal Native Affairs Department—*

2. It is important, in my opinion, that the authority in which is vested the administration of an urban area should not be divested of its proper powers or responsibilities in respect of any of the communities comprising the resident or floating population of the area.

3. In view of the numerical predominance of the native population and the consequent necessity for exercising both protection and control over natives, who pass out of the jurisdiction of their tribal authorities on leaving a native reserve, it would seem to be imperative that in towns, such as Nairobi and Mombasa, there should be a Municipal (or Urban) Native Affairs Department.

4. In order both to secure an experienced officer to conduct such a Department, and to form a definite liaison between Government and the Urban Authority, I would suggest that, in the case of Nairobi, at any rate, a selected Administrative Officer be seconded to the Municipality as "Municipal Native Affairs Officer."

5. The duties of such an Officer should be :—

(1) To supervise the carrying out of all Municipal Bye-laws relating to natives ;

(2) To issue any passes or permits required by any bye-law in the case of natives ;

(3) To licence casual labourers, rickshaw boys, etc. ;

(4) To control the native location, beer shops, etc. ;

(5) To be in charge of the finances of the Municipal beer-shops or any similar activities ;

(6) To keep in close touch with the native population of the Municipal area, and for this purpose to organize Advisory Committees consisting of leading natives of good character and

influence through whom to communicate the intention of bye-laws and regulations to natives, and to obtain expressions of native opinion, and thus to secure native confidence in the Urban Authority and in Government.

(7) To encourage healthy forms of recreation amongst natives during their leisure hours.

6. The Superintendent of the Native Location should be placed under the orders of the Native Affairs Officer, who should be provided by the Urban Authority with an office and the clerical staff necessary to carry out his duties. The Native Affairs Officer would of course be under the orders of the Urban Authority but should preserve close touch with Government through the Senior Commissioner.

7. Effective administration of native affairs in an urban area can only be achieved through the medium of an officer who has a natural bent for that class of work, and who is prepared to devote most of his afternoons and evenings to the town, and especially to the native locations, for it is only during the hours when natives are not at their daily work that the Native Affairs Officer will have an opportunity of meeting them and knowing what they are doing. I venture to suggest therefore that, in addition to the ordinary salary of his grade, the Officer seconded for such duty should receive an allowance of, say, £150 per annum from the Urban Authority. This might be considered a fair charge on revenue derived by the Urban Authority from native sources, *e.g.*, the profits of Municipal native beershops. It may be anticipated that in course of time the Municipal Native Affairs Department will become quite a large organization requiring considerable staff and collecting a large Municipal revenue.

#### *Control of Natives in Towns—*

8. I consider that it is important, in the interests of natives generally, as well as of other communities, that the ingress of natives to towns and their residence therein should be strictly controlled. Land for the occupation of native tribes has been definitely set aside by Government, and natives should not be encouraged to come into towns except for the legitimate purposes of employment or trade. At the same time the interests of those natives who are in honest employment or business, and are thus an important asset to the town, should receive every consideration at the hands of the Urban Authority. It is unfortunately the case in any Colony with a native population that among those to whom a town naturally offers attractions are idle, vicious or criminal natives, who seek to avoid tribal control or indeed any control at all. Such undesirables do not come to town to work but rather to live "on their wits," which generally means either begging or stealing, and they become not only a menace to public

security but a definite incubus upon the honest working natives from whom they beg lodging and food, relying on tribal custom to preclude a refusal.

9. Bye-laws to deal in some measure with such natives have recently been made and will be found on page 1,299 of the *Official Gazette* of October 27th, 1926.

10. In view of the geographical situation of Nairobi, I do not consider that a native should be required to obtain a pass before entering a town, though he might well be required to report his arrival if he intends to remain over-night. The latter is, I think, especially important in the case of up-country natives arriving at Mombasa Island.

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## CHAPTER IX.

## CERTAIN PROBLEMS OF FUTURE DEVELOPMENT.

Our rating proposals do not provide for the differential rating of suburban areas, except in so far as agricultural land in such areas will receive the benefit of a partial exemption from rates. In the case of other land in the outskirts of the municipal area, the lower values which normally prevail in proportion to distance from the business centre of a town will tend to lighten the contributions to rates made in respect of suburban properties. One question which will have to receive careful consideration in connection with future development is the question of the extent to which municipal works in the suburban areas should be provided for from general municipal funds.

2. We have referred to the road question in the suburbs in Part 2 of Chapter IV., and have suggested that necessary roads to provide suburbs with adequate means of access to the centre of the town should be provided as soon as possible at the expense of the Council, but that the question of applying the Townships (Private Streets) Ordinance to obtain contributions from owners concerned towards the cost of other roads in suburban areas will have to be considered. It is in connection with the construction of internal suburban roads, which have to be regarded as private as long as no public money has been expended upon them, and which are required to serve particular groups of properties, as distinct from roads which are of importance as general means of communication, that this question will arise.

3. In connection with this subject, the statement made on behalf of the Upper Nairobi Township and Estates Co., Ltd., which has large holdings of suburban land, that in the event of areas in which that Company owns the greater portion of the land being included in the municipal area, the Company would be prepared to make the necessary roads and hand them over to the Municipality, must be borne in mind. If recourse is not had to special means, such as are indicated above, for the purpose of raising the funds required for the development as required of roads which serve the internal needs of particular suburbs, property owners in the town might have reason to complain on the ground that an unduly large proportion of general revenue was being expended for the purpose of suburban development, and that works required for the benefit of the central portions of the area were being neglected or delayed.

4. In view of the large Indian population at present living within the limits of the bazaar area close to the commercial centre of the town, where so much requires to be done in order to secure an improvement of sanitary conditions, the question here discussed is of special importance.

It must, however, be remembered that, if our proposals with regard to motor taxation are adopted, there will be a substantial annual sum available for road expenditure apart for any provision for road purposes made from revenue derived from rates and from Government grants.

#### DRAINAGE WORKS REQUIRED FOR MALARIA PREVENTION.

5. We desire to draw attention to one question of great and urgent importance both to central and suburban areas, to which brief reference has already been made in Chapter I., namely, the question of drainage works to be undertaken, both in the existing municipal area and in the suburbs, for the purpose of malaria prevention. The following letter on this subject was addressed to the Commission by the Acting Town Clerk of Nairobi :—

MUNICIPAL OFFICES,  
NAIROBI.  
21st October, 1926.

THE SECRETARY,  
MUNICIPAL COMMISSION,  
NAIROBI.

SIR,

#### MALARIA IN NAIROBI.

I am instructed by the Finance Committee of the Municipal Council to write to you pointing out one of the financial difficulties that the Council is faced with in the prevention of Malaria.

We have received a petition, signed by about fifty Parklands residents, asking that the stream running alongside the road reserve known as 1st Avenue, Parklands, should be cleared, drained, or canalized, since they consider its present condition is a menace to the neighbourhood. There is no doubt that their contention is correct.

From the Municipal point of view, for some years there has been no intention of making this road reserve into a road. The cost of carrying out the work necessary to remedy the present state of affairs would be very considerable. Streams are vested in the Crown, and the Municipality has never received any money for capital work of this nature, and have no funds available to undertake the work.

Besides all this particular piece of land where mosquitoes breed practically the whole year round, other work in connection with this problem is as follows :—

Numerous quarries and pits require filling in. There are nine series of these pits to be attended to. The following streams, etc., require similar attention to the one in 1st Avenue, Parklands :—

(a) Mathari River in the area between Parklands and Muthaiga and the Swamp area in and around Plot No. 193.

(b) Stream running through Upper Parklands, Parklands Valley and City Park joining Mathari River in the neighbourhood of Kyambu Road Bridge.

(c) Nairobi and Ngara Rivers from Western Municipal Boundary to Eastern end of Native Location; the irrigation canals in connection with the river.

The Swamp extending from Ainsworth Bridge to Racecourse Road and the marshy ground on the East side of Government

Road and Railway between Ainsworth Bridge and Kirk Road Junction ; also marsh in Chiromo.

(d) The stream rising behind Government House and running down the valley to the Natural History Museum, collecting drains from Crawford and Valley Roads, thence between All Saints Church and the Treasury to Whitehouse Road across the Railway Golf Course to Railway Plantation and Ngong River.

(e) Stream running through Upper Hill Estate under Ngong Road and between Golf Course and K.A.R. Reserve.

In addition to the above work, there are, in various parts of the town, a network of open earth drains, which contain stagnant water very often throughout the year, and which will have to be dealt with in the immediate future.

I have the honour to be, Sir,

Your obedient servant,

(Signed) L. GILBERT,

*Acting Town Clerk.*

6. We also received a copy of a Report made to the Council by Dr. Ronald Hunter, Medical Officer of Health for Nairobi, dealing fully with the question of the existing breeding grounds afforded to mosquitoes in Nairobi Municipal area and the suburbs, and the drainage works which will have to be undertaken for the purpose of malaria prevention. A copy of this Report is appended to our Report—Appendix IV.

7. The Commission addressed the following letter to the Acting Colonial Secretary on the subject of the communication received from the Acting Town Clerk :—

[COPY.]

LOCAL GOVERNMENT COMMISSION,

NAIROBI,

*3rd November, 1926.*

L.G.C.2/16.

SIR,

I have the honour to inform you that the Commission heard evidence on the 25th October from Dr. Ronald Hunter, Medical Officer of Health, Nairobi, and had previously received copies of his reports to the Nairobi Municipal Council on the subject of sanitation in Nairobi, more particularly with reference to the problem of Malaria and anti-Malaria measures.

2. You will be aware that Dr. Hunter's view is that the incidence of Malaria in Nairobi has a most important bearing on the general standard of physical efficiency of the community. His proposal to drain off all the swamps, river beds and pits is one which will involve very considerable expenditure.

3. The question has been submitted to the Commission by a Committee of the Nairobi Municipal Council which has been petitioned by certain



[COPY.]

MUNICIPAL OFFICES,

NAIROBI.

No. T. C. 20/1.

December 23rd, 1926.

THE HON. COLONIAL SECRETARY,  
Secretariat,  
Nairobi.

## PREVENTION OF MALARIA IN NAIROBI.

SIR,

With reference to your number C/Lnd/4/1/15/1, of the 6th ult., I enclose herewith a Report on the above subject signed by the Municipal Engineer and the Acting Assistant Chief Engineer of the Kenya and Uganda Railway, which, following on the Medical Officer of Health's Memorandum, deals more particularly with the question of allocating the cost of the work to the Municipality and Railway Administration.

The Corporation is of the opinion that all the works beyond those estimated for in this Report should devolve on Government, but the Public Works Department have notified me by letter No. 1/37/1316 of the 10th inst., copy of which is enclosed, that they are not in a position to agree to this opinion, and, presumably for that reason, have not submitted an estimate of cost.

I have the honour to be, Sir,

Your obedient Servant,

(Signed) L. GILBERT,

Town Clerk.

Enclosures.—Report and copy of  
letter from P. W. D.

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COPY OF REPORT SIGNED BY MUNICIPAL ENGINEER AND ACTING ASSISTANT  
CHIEF ENGINEER, KENYA AND UGANDA RAILWAY.

The following report is submitted in compliance with Government's request contained in their letter No. S/C Lnd/4/1/15/1 dated 6th November, 1926, addressed to the Acting Town Clerk.

The Medical Officer of Health's Memorandum on the subject contains the principal points for consideration, but a difficulty arises on the question of allocating the work and costs amongst the three authorities, viz. : Government, Municipality and Railway. It has been assumed that the Railway Administration is responsible for all works within its boundaries; the Corporation for all work within the Municipal Area on road-side ditches bounding constructed roads, drainage of murrum pits which have been operated by them and the improvement of the water course through the City Park.

The Government being responsible for the remainder.

The Railway administration have prepared a scheme for the better alignment and proper construction of that section of water course stretching

from behind the Treasury to South of plantation on Plot 244, which lies wholly within Railway land. The scheme provides for a canal with a concrete invert on stone packing from a sound foundation, concrete block battered sides supporting flatter slopes pitched with stone. The estimated cost is £7,300.

They are also arranging for the construction of a concrete drain through Plot 246 from their workshops to connect with the P.W.D. drain at the Factory Sites and another from behind their godowns on Whitehouse Road to an existing concrete drain in their location on Plot 236, from whence other concrete drains will be laid towards Nairobi River.

The first-mentioned drain is estimated to cost £510, and the second, up to the existing location drain, £360.

The borrow pits along the line parallel to Salisbury Road and the excavations within their Asiatic residential area on Kiambu Road have already been dealt with.

The Corporation have arranged a contract for the clearing of roadside ditches as and when advised by the Medical Officer of Health, and it is estimated that this work will cost approximately £800 per annum.

The manufacture of concrete drainage tiles has been started and the estimate of £1,000 should be sufficient to deal with the ditches in the flat areas. The cost of dealing with the stream within the City Park is estimated at £1,500.

(Signed) C. R. DAVIDSON,  
*Municipal Engineer.*

(Signed) T. F. LINNELL,  
*Acting Assistant Chief Engineer.*



## CHAPTER X.

## STAFF AND PROCEDURE.

## STAFF.

The Draft Standing Orders which form Appendix V. to this Report include a summary of the duties which will have to be performed by the Town Clerk and the Treasurer. We desire to make special reference here to the duties of the Town Clerk, as set out in the draft. It will be clear from the clauses dealing with this position (more especially clauses 127 to 131) that very heavy responsibility is placed upon the Town Clerk, as the chief official of a municipal body. In order that the Town Clerk of Nairobi may be in a position adequately to discharge this responsibility it is, in our opinion, necessary that he should be a man of legal training, who has a thorough grasp of the principles of municipal administration, and has had experience of municipal work in some country where municipal institutions have reached an advanced stage of development. On this point we may quote the following evidence given by Mr. Shapley, who served for nearly two years as a member of the present Municipal Council :—

“ MR. SHAPLEY : I have always advocated the appointment of a Town Clerk who had experience of municipal matters elsewhere, who should be a very first-class man, and preferably should be a solicitor, because a solicitor is, as I think is recognised in municipal work at home, rather better qualified than the ordinary man to deal with municipal matters which involve reading correctly Acts of Parliament, bye-laws and so on, and he is incidentally of great use in the arranging of various contracts—the lawyer has a great advantage over one who is not so qualified, as the work constitutes so large a part of a Town Clerk’s duties, but I certainly have been very favourably impressed with the way in which Mr. Gilbert, although a Chartered Accountant only, has fulfilled the work of Acting Town Clerk. But that does not alter my view that it would be of advantage to Nairobi to have a qualified man with excellent credentials before appointment.

“ THE CHAIRMAN : You feel, apart from the question how the strictly legal work of the Council should be conducted, that it is of great importance to have a man in the service of the Council with a legal training ?

“ MR. SHAPLEY : Yes.

“ THE CHAIRMAN : From day to day, and hour to hour, these laws and regulations have to be interpreted by someone, and you feel the importance of having someone who has been accustomed to look at questions from a legal point of view ?

“ MR. S. : Certainly ; if it were my business to collect revenue and settle disputes I would certainly appoint a legal man who had the proper training.

“ THE CHAIRMAN : You feel the importance of having a man with a legal training, plus experience of municipal work and a municipal education ?

“ MR. S. : Most certainly. He should have both these qualifications.”

The proposed extension of the municipal area, the important works to be undertaken and the coming into force of a law providing for municipal elections on a legal basis, will involve a corresponding increase in the Town Clerk's duties and responsibilities.

2. It is of great importance, in the interests of the Council and of the community, to secure that future appointments not only of the Town Clerk, but also of other heads of departments, namely the Treasurer, the Municipal Engineer, and the Medical Officer of Health, should be made in such a way as to secure men who are well qualified for their posts. The efficiency of municipal administration must necessarily depend very largely on these four officials. The Government, which will, according to our proposals, itself be a large contributor to municipal funds, must on this special ground, apart from more general considerations, be recognised as having a very direct interest in all four appointments. We consider therefore that any future appointment to the post of Town Clerk, Treasurer and Municipal Engineer should, as in the case of the appointment of a Medical Officer of Health, which is separately dealt with, be subject to Government approval.

Further, in order to attract suitable candidates, reasonable security of tenure must be offered. The best way, under present circumstances, of fulfilling this required condition is to lay down, in terms similar to those used in the case of the Medical Officer of Health, that the dismissal of any such officer shall require the approval of Government.

There is the further consideration on this point that each of these officials should, like the Medical Officer of Health, be in a position to act as responsible adviser to the Council on all matters falling within his sphere, and he should therefore be able to feel secure against unfair attacks to which he may from time to time be exposed by any person or group of persons whose interests may appear to be adversely affected as a result of any advice which he may find it his duty to give.

3. The requirement that the Government should concur in the appointment and dismissal of these three officials will, in our opinion, render it desirable that the Government should make some direct contribution towards their salaries ; in the case of the Medical Officer of Health and Sanitary Inspectors, we have suggested that the Government contribution should be one-half, in view of the extent to which the interests of the whole country are involved in the efficient local administration of health services ; in the case of the salaries of the Town Clerk, Municipal Engineer, and Treasurer, we suggest that the contribution should be limited to one-third.

4. Apart from what we have said as to the qualifications required for the post of Town Clerk, we wish it to be understood that the proposals contained in this Chapter are not to be read as involving any expression of opinion with regard to the competency and qualifications of any of the present officials of the Nairobi Corporation.

## PROCEDURE.

5. We append a set of model Standing Orders and Financial Regulations which have been prepared by Mr. E. V. Shilton. They are adapted from the Standing Orders and Financial Regulations in force in the Transvaal, and are explained briefly in notes in the concluding section of this Chapter. We think they will provide a useful guide to municipal bodies in creating their own systems of procedure and administration, particularly in connection with the working of the Committee System. A proper understanding of the Committee System is necessary for the efficient conduct of public business by local authorities.

6. It does not appear that full effect has ever as yet been given to such a System by the Nairobi Municipal Corporation.

The following important matters in connection with organization may be specially noted:—

(a) No references to Committee have been drawn up, with the result that there has been uncertainty as to the scope of individual Committees.

(b) Departments have not been definitely placed in charge of Committees; this is necessary in order that Committees may effectively supervise the departmental administration.

(c) Officials have not been required to submit regularly to Committees the full written reports which are necessary in order to keep Committees in touch with the departments under their control.

(d) Committees have not prepared Reports to Council but have instead submitted their Minutes, which are often in a form which does not convey necessary information or sufficient explanations of the reasons underlying the recommendations made.

Further, we observe that the Standing Orders of Nairobi have not been made in the form of bye-laws, but were merely passed by the Council without submission for approval of the Governor-in-Council. They do not provide fully for the regulation of the business and proceedings of the Council. The existence of Committees is recognised, but regulations for the appointment, duties, meetings and reports of Committees are not made. Provisions regulating the details of procedure are also omitted in regard to many other important matters, such as the form of Minutes and confirmation thereof, appointment, dismissal and duties of officials and the reports of officials to Committees.

Further, the Standing Orders permit Councillors present at Council Meetings to refrain from voting. This is most undesirable, as resolutions may be passed under such circumstances when the total votes recorded do not represent a quorum of the Council.

There are not provisions in the Standing Orders for regulating the preparation and passing of estimates, the procedure in connection with tenders, and the general financial business of the Council.

No doubt procedure in regard to many of the points referred to above, not covered by existing Standing Orders, has been laid down from time to time in resolutions of the Council, but we think that the question of making definite provision with regard to these points in Standing Orders, which can be readily referred to, should receive consideration.

#### STANDING ORDERS AND FINANCIAL REGULATIONS.

7. The constitution, powers and duties of local authorities and the general system of local Government are provided by the laws which govern such bodies, but the details of procedure and administration are not regulated in the same manner. They are laid down in bye-laws made by local authorities and approved by the Central Authority. Municipalities vary in size and character, and such a system enables each local authority to adopt for its own use the methods of procedure and administration best suited to its needs and circumstances.

The draft Standing Orders and Financial Regulations—Appendix V—are taken from those in force in the Transvaal and embody the system which has been followed there for a considerable number of years. They provide for matters affecting procedure and administration which it is necessary to regulate by bye-law and in a number of cases amplify or repeat statutory provisions.

It is not supposed that they will be entirely suitable for adoption in all cases, but they furnish a model which it is hoped will be found useful by local authorities in building up their own systems.

#### STANDING ORDERS.

8. The Standing Orders deal with conduct of and procedure at meetings of the Council and Committees; appointment, constitution and powers of Committees; reports of Committees and officials; appointment and duties of officials; interpretation of Standing Orders; etc.

The system of organization contemplated by the draft Standing Orders provides for the work of the Council being divided into a number of sections and for the supervision of each section by a Standing Committee. All matters arising which require the consideration of the Council are first referred to the Committee concerned; the Committee, sitting in private, takes the advice of officials and submits recommendations to the Council. The decisions of a Committee, on any matter, in respect of which the Council has delegated its powers to such Committee, do not require the approval of the Council, but the proceedings of the Committee must in all cases be reported to the Council. The Council, sitting in public, deals with the recommendations of the Committee and any other matters brought before it, and it is the duty of each Committee to see that the decisions of the Council which lie within their reference are carried out by the officials.

9. Heads of departments and other officials are required by Standing Orders to submit written reports relating to the working of their departments with recommendations for the better carrying out of works and services, and it should be found in practice that most of the matters requiring to be dealt with by the Council and Committees are brought up through the medium of such reports. Generally speaking, Councillors are busy men and have not time to investigate for themselves the numerous details of municipal administration and they must in consequence depend to a large extent upon officials for essential information in regard to the conduct of municipal business. The importance, therefore, of obtaining full and regular written reports on all matters of any consequence from officials cannot be over-estimated, and if, as should be the case, such officials are selected for their special knowledge of the subjects with which they have to deal, their opinions and recommendations should always receive the serious consideration of Committees and the Council.

10. Matters are usually brought forward for the consideration of the Council through Committees in the manner described, but may also be brought forward by notices of motion of individual Councillors. All business to be transacted must, however, be specified in an Agenda Paper circulated to members at least twenty-four hours before the meeting, except in the case of urgent business, for which special provision is made under the Standing Orders. The reports and recommendations of Committees must in all cases be circulated with the Agenda Paper referred to before the meeting of the Council.

#### REFERENCES TO COMMITTEES.

11. The work of Municipal Authorities may be divided broadly into four groups, namely, General Purposes, Finance, Health, and Works ; and departmental administration is usually divided into four main groups each in charge of an official, such officials being the Town Clerk, Treasurer, Medical Officer of Health, and Engineer. It is, therefore, of importance that the division of work amongst Committees should correspond as nearly as possible with administrative divisions, in order to save the time of both Committees and officials. There are, however, purposes which do not fall into any of the groups named which may be under separate administrative heads, such as Native Affairs, and the Council in such cases must decide whether to form a separate Committee or refer such matters to one of the other Committees. References to Committees should, therefore, be fixed by resolution of Council from time to time, and should be framed with a view to the most efficient and expeditious conduct of business. An example of references grouped under the four divisions previously mentioned is given at the end of these notes. It will no doubt be found that in small towns four Standing Committees will not be required and in such cases it may be possible to combine General Purposes and Finance in one Committee and Health

and Works in another. The important thing, however, is to distribute the whole of the work of the Council amongst Standing Committees, in order to avoid the necessity for the creation of numerous Special Committees from time to time. Special Committees involve additional expenditure of time by Councillors, and should only be resorted to on those occasions when the knowledge and experience of the members of more than one Standing Committee are necessary for the proper consideration of an important subject ; and on such occasions a conference of two or more Committees will often prove the most satisfactory method of procedure.

#### WORKING OF THE COMMITTEE SYSTEM.

12. The duties of Committees include :—

- (a) taking decisions on all matters where full authority has been delegated by the Council ; and
- (b) making recommendations on matters which require the decision of the Council.

All the proceedings of Committees should be recorded in Minutes, and should be reported to the Council. The reports of the Committees to Council should differ from the Minutes ; both should record the decisions and recommendations of the Committees, but the former should also give full reasons for any recommendations made on matters which require the decision of the Council. Proposals should only be put forward by Committees after careful investigation, as delay will almost always be caused when ill-considered recommendations are put forward, or if sufficient information is not given to enable the Council to reach immediate decisions. The danger of delay may, however, be avoided to a large extent by full co-operation between the different heads of departments and also between such officials and Committees. It is necessary, in order to facilitate the progress of business through the Committees and the Council, that the meetings of the Finance Committee should be held at such times as will allow recommendations involving expenditure coming forward from other Standing Committees to be reported upon by the Finance Committee before the next meeting of the Council.

#### FINANCIAL REGULATIONS.

##### GENERAL FINANCIAL CONTROL.

13. The Financial Regulations deal with the duties of the Finance Committee ; Estimates ; Revenues ; Tenders ; Orders for Works and Goods ; Accounts and payments ; duties of Treasurer ; Capital Accounts, etc.

The proper financial control of affairs of local authorities is of the utmost importance. Most officers and Committees are to some extent

concerned in the earning of revenue, the incurring of expenditure and the use of stores and materials, and, unless adequate supervision is exercised and a proper system laid down for the regulation of financial transactions, the possibilities of loss being occasioned by waste, inefficiency or fraud are very great.

The duty of financial control is exercised by the Treasurer, subject to the direction of the Finance Committee, and his position is, therefore, an important one. He must possess a large degree of authority in financial matters if his work is to be carried out efficiently, and that is why his duties are prescribed in some detail in the Financial Regulations. The evil effects of a lack of financial supervision are not always apparent, except on a close investigation, and this sometimes accounts for the failure of Council to appreciate the necessity for the appointment of well-trained and experienced officers to the post of Treasurer.

#### CONTROL OF EXPENDITURE.

14. It is perhaps necessary to refer specially to the provisions in the Regulations in regard to the control of expenditure. They lay down the procedure to be followed in connection with annual revised and supplementary estimates and also provide—

(a) That the Council shall not incur expenditure until it has been considered and reported upon by the Finance Committee ;

(b) that normal recurring expenditure provided for under approved estimates may be incurred by the Committees concerned ;

(c) that no work shall be commenced or purchases effected or other expenditure incurred (except as provided under (b) ) until the Finance Committee has reported to the Council that the necessary funds are available, and the Council has approved of such expenditure being proceeded with ;

(d) that expenditure, not provided in approved estimates, shall be made the subject of a special estimate to be submitted by the Finance Committee to the Council and, upon such estimate being approved, the Committee shall upon their recommendation to the Council be authorised to pay such expenditure ;

(e) that no payment shall be made until the expenditure has been provided for in approved estimates, or, if it has not been so provided for, until it has been expressly ordered by the Finance Committee ;

(f) that the following shall be reported to the Finance Committee :—

(1) Any anticipated excess of expenditure under an approved estimate ;

(2) Any actual excess of expenditure under an approved estimate ;

(3) Any saving on expenditure under an approved estimate.

The reasons for (c) may not be quite clear. The first reason is that municipal revenues are collected at different times during the financial year, and the expenditure must be controlled in order to prevent liabilities being incurred when there are no funds to meet them. The second reason is that annual estimates are passed before the commencement of the financial year, and provision often has to be made therein for expenditure on works or other purposes for which full details cannot at the time be supplied. It is, therefore, necessary, before any such work or purpose is carried out, that the complete details of the proposals should be submitted to the Council for consideration and approval.

#### A. FINANCE COMMITTEE.

This Committee shall consist of not more than five or less than three members, exclusive of ex-officio members.

The Committee shall, at each ordinary meeting of the Council, make such report as shall enable the Council to carry out the financial provisions of the laws relating to the Municipality, and shall undertake the duties and exercise the powers allocated to the Committee under the Financial Regulations.

#### B. GENERAL PURPOSES COMMITTEE.

The Committee shall consist of the Chairmen of the three Standing Committees, with the addition of two other members, to be appointed by the Council, and the ex-officio members.

This Committee shall—

(1) Consider and report whenever necessary upon the conduct of the administrative work of the Council and of any of its Committees and Departments, and make such recommendations with respect thereto as it may think fit ;

(2) Have charge of the Town Clerk's Department ;

(3) Consider and report upon all questions relating to the appointment and dismissal of the Heads of Municipal Departments and of the staff of the Town Clerk's Department ;

(4) Consider and report upon the office accommodation at the Municipal Offices ;

(5) Review Agenda before submission to the Council ;

(6) Consider and report, whenever necessary,

(a) On any legislation or proposed legislation affecting the Council ;

(b) On the Standing Orders of the Council ;

(c) On the References of the various Committees ;

(7) Enforce all Bye-laws relating to weights and measures and the manufacture, storage, carriage, sale, or use of petroleum, gas, and all other combustibles ;

(8) Enforce all Bye-laws of the Council on matters not referred to any other Committee ;

(9) Superintend the management of any public institutions under the control of the Council which are not within the reference of any other Committee ;

(10) Superintend the arrangement of any Census which the Council may undertake ;

(11) Consider and report on any matter not referred to any other Committee ;

(12) Enforce all Bye-laws with reference to the keeping of bees or wild dangerous animals ;

(13) Enforce all Bye-laws of the Council for preserving and protecting wild birds and animals ;

(14) Have charge of all matters relating to the management of land or buildings belonging to or controlled by the Council and not within the reference of any other Committee.

It shall be competent for the Committee, in case of every new proposal, which it may consider of sufficient importance, to point out its bearings on the law of the land, or on the Council's general lines of action, or on the other works that it may have undertaken, or have in contemplation.

#### C. PUBLIC HEALTH COMMITTEE.

This Committee shall consist of not more than five or less than three members, exclusive of ex-officio members.

This Committee shall—

(1) Have charge of the Public Health Department, and consider and report on all questions relating to the appointment and dismissal of the staff of the said Department and its branches, exclusive of the Medical Officer of Health ;

(2) Have the care and supervision of all matters relating to the public health and the sanitary condition of the Municipality, and the prevention and abatement of nuisances causing annoyance or danger or injury to health, and enforce all Bye-laws relating thereto ;

(3) Supervise the collection and removal of all dust, ashes, night soil, slop water, and filth, and enforce all Bye-laws relating to such collection and removal ;

(4) Enforce all Bye-laws with regard to the closing of buildings unfit for human habitation, and the regulation of wells, tanks, and cesspools ;

(5) Enforce all Bye-laws with regard to the prevention of infectious diseases, and take all necessary steps in respects of cleansing, fumigation, and disinfection ;

(6) Enforce all Bye-laws for securing the purity of sources of water supply or storage, whether situate within or without the Municipality ;

(7) Enforce all Bye-laws relating to washing and laundry work and undertake the granting of licences under such Bye-laws ;

(8) Superintend the management of all bath houses and wash houses under the control of the Council, and enforce all Bye-laws with reference thereto ;

(9) Enforce all Bye-laws of the Council for the regulation of Tea Rooms, Cafes, Restaurants, Hotels, Boarding Houses, Eating and Lodging Houses, and all Dairies, Milk Shops, Cow Sheds, Bake Houses, Butcher Shops, Slaughter Houses, and all Factories and places where articles of food or drink are manufactured or prepared for sale or use, and undertake the granting of licences under such Bye-laws ;

(10) Supervise the granting of all trading licences and enforce all Bye-laws relating thereto ;

(11) Enforce all Bye-laws relating to the killing of cattle and other animals, and the sale of meat, and all Bye-laws relating to diseased animals, meat, fish, and any article of food or drink unfit for the use of man, and the adulteration or reduction below its proper standard of quality of any article of food or drink ;

(12) Enforce all Bye-laws of the Council with regard to dogs and dog licences ;

(13) Regulate and control the issue of native passes and enforce all Bye-laws of the Council relating to Natives ;

(14) Superintend the management of all locations for natives established or controlled by the Council ;

(15) Superintend any compounds used for the purpose of the Sanitary Department ;

(16) Control the Municipal Pounds, and enforce all Bye-laws of the Council in regard to impounding animals ;

(17) Superintend the management of all public conveniences under the control of the Council.

(18) Consider all questions relating to sewerage and drainage, and superintend the management of sewers and drains other than surface water drains under the control of the Council ;

(19) Consider and report upon all questions relating to libraries, museums, hospitals or asylums, and superintend the management of any such institutions under the control of the Council ;

(20) Arrange for such inspection of all premises and things as may be necessary for the effective carrying out of any of the Bye-laws herein referred to ;

(21) Have charge of all buildings and premises of the Council used in connection with the work of the Committee ;

(22) Have charge of all plant, animals, etc., required in connection with the work of the Committee ;

(23) Superintend the management of the cemeteries and mortuaries under the control of the Council, exclusive of the collection of fees.

## D. WORKS COMMITTEE.

This Committee shall consist of not more than five or less than three members, exclusive of ex-officio members.

This Committee shall—

(1) Have charge of the Fire Brigade, and consider and report on all questions relating to the appointment and dismissal of the staff of the Brigade, exclusive of the Chief Officer ;

(2) Have charge of all matters relating to tramways or other means of public transport ;

(3) Superintend the management of all Parks and open spaces, and the planting, trimming or removal of trees or shrubs in streets and open spaces and enforce all Bye-laws of the Council with reference thereto ;

(4) Enforce all Bye-laws of the Council relating to the extinction and prevention of fires, and any other matter referred to the Committee ;

(5) Have charge of the Town Engineer's Department, and consider and report on all questions relating to the appointment and dismissal of the staff of the said Department, exclusive of the Town Engineer ;

(6) Have the care and supervision of all matters relating to streets, including the naming, construction, maintenance, cleaning and watering thereof, and the numbering of houses ;

(7) Superintend the management of all markets, market buildings, cold storages, and public weighing machines controlled by the Council ;

(8) Superintend the construction of all works ordered by the Council ;

(9) Have charge of the Municipal Workshops and all buildings and premises used in connection with the work of the Committee ;

(10) Have charge of all plant, animals, etc., required in connection with the work of the Committee ;

(11) Enforce all Bye-laws of the Council relating to streets, traffic, advertisements, buildings, laying out of new streets and townships, market and public sales, and any other matter referred to this Committee ; and consider and decide upon all applications, and undertake the granting of all licences under such Bye-laws, but exclusive of the collection of fees for such licences ;

(12) Enforce all Bye-laws relating to theatres, music-halls, public halls, concert rooms, public billiard rooms, public bagatelle rooms, and other places of public recreation and entertainment, and undertake the granting of licences under such Bye-laws ;

(13) Enforce all Bye-laws of the Council with reference to the making of bricks and the digging or quarrying for or removal of clay, gravel or stone and the cutting of firewood, brushwood and grass on land belonging to the Council, and undertake the granting of licences under such Bye-laws, but exclusive of the collection of fees for such licences ;

(14) Regulate and control depasturage on land belonging to the Council ;

(15) Superintend the supply and distribution of any water under the control and management of the Council.

ACKNOWLEDGMENTS.

We desire to associate ourselves with the acknowledgments to those who gave evidence before us and assisted us with Memoranda and information, and with the tribute paid to the Staff of the Commission contained in the concluding paragraphs of the Report on Central Organization.

All which we submit for Your Excellency's consideration.

(Signed) RICHARD FEETHAM, *Chairman.*

W. C. HUGGARD, *Attorney General.*

H. T. MARTIN, *Commissioner of Lands.*

THOS A. WOOD (subject to Note),  
*Additional Member.*

V. V. PHADKE (subject to Note),  
*Additional Member.*

W. M. LOGAN, *Secretary.*  
*February 8th, 1927.*

## NOTE BY MR. T. A. WOOD.

I have signed the Report because I agree that the recommendations provide a sound foundation for the establishment of a Local Authority, but, having in mind the present serious disproportion between population and area, which disproportion will be greatly increased if the proposed extension of area takes place, I must add the proviso that it will be necessary for the future Local Authority, in order to avoid an increase of existing difficulties, taking a special care in regard to :—

Application of Regulations ;

Extension of services which are at present performed on an uneconomic basis—possible disproportion between results of taxation and expenditure entailed.

In regard to details which have to be settled later by the Legislature, in view of my close connection with the existing Municipal Council, I must be allowed to preserve an open mind, but I can say definitely that I am unable to agree with proposals for legislation which, if carried into effect, would in my opinion result in forcing owners of property to prematurely protect themselves against future rating proposals, resulting in immediate disadvantage to the tenants of the property concerned.

I have signed the Report subject to the above Memo.

(Signed) THOS. A. WOOD.

NAIROBI.

*February 8th, 1927.*

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NOTE OF DISSENT BY MR. V. V. PHADKE.

I feel compelled to disagree with certain recommendations made by the Commission. I discuss these below, together with the reasons for such disagreement.

THE EXTENSION OF THE AREA.

The majority of the witnesses both from within the Township and outside began by opposing any such extension. Some contended that it would even be desirable if it were practicable to reduce the area. The reasons for this view were given as "Financial." Many of them ultimately came round to the view that, at any rate as a matter of

principle, it would be more economical in working expenses to have one large area than many areas contiguous to each other under separate local authorities. Some witnesses expressed the fear, however, that these outside areas, when included, would, with or without justification, make demands for services and roads disproportionate to their contributions to the revenue and make claims which it would be difficult to resist in practice. An attempt to satisfy these claims would impose a heavy burden on the town's finances. I agree with this opinion as a correct analysis of the present position. Stress has been laid in the report on the importance of the future Municipal Administration of the enlarged area being conducted so as not to involve any unfairness to any section of the inhabitants. From the point of view of the central portion of the town where there is a congested Indian population that has in the past complained of such a state of affairs even as regards the present limits of the Township, I feel that the extension will aggravate this difficulty unless there is some strong safeguard laid down.

It is perhaps difficult to lay down the principle of differential rates for different portions of a Municipal area, as such an arrangement might prove unworkable in practice. I can make one definite suggestion of a safeguard against the above, and that is that the charges in connection with the construction and maintenance of roads be raised out of a separate rate based on the area of each holding on lines somewhat similar to the rate at present levied in Muthaiga.

We have been unable to obtain any comparative figures, probably because it is difficult to compile such figures on the basis of what are, after all, at present, hypotheses, as to the difference in cost of administration between the system proposed and the system of having a separate unit or units for the outside areas. I am, however, in agreement with the statement that from the point of view of unified control and supervision by Government, the proposal of one large area embracing the suburbs is preferable.

My second and stronger objection to extension is, however, that it will tend to disturb the representation of the different communities on the Nairobi Corporation, a point which I shall refer to presently.

#### CONSTITUTION.

I feel unable to agree with the proposition that the Nairobi Corporation must be composed of a large European majority. In my view, the allocation of representation should be based on considerations of population and contributions to revenue by the different communities. On such a basis it would be found as stated by an ex-official of the

Corporation "that the non-European representation is too small (if numbers and rates paid are the criterion)." However, in 1924, it was felt that a compromise should be arrived at in spite of this, and it was arrived at. I am definitely of the opinion that the recommendations of the 1924 Commission, in so far as the balance of representation is concerned, should not be disturbed either directly, by way of a preference towards a large European majority, or indirectly as the result of an inclusion of outside areas. Throughout the mass of evidence given I have looked in vain for any definite instance quoted by any witness of inefficiency or mal-administration traceable only to the present proportion of members representing the various communities in the present Council. On the contrary, many witnesses, Europeans and Indians, testified to there being an improvement in general conditions since 1925, and not one witness stated that they had deteriorated as a result of the balance established at present. I am of opinion that the constitution of the Municipality should not be made the subject of contention between divergent political theories, and that the present balance of representation should be allowed to remain as it is. I maintain that it would be unwise to raise on this question another controversy similar to the one that has been laid at rest in 1924. I also feel that the alteration of the Constitution as proposed would have the effect of diminishing the amount of money spent and attention given to the Asiatic areas of the town, and feel that conditions will tend to revert to what they were before 1925.

If the area must be extended, I maintain that it is essential to have some safeguard as aforesaid and to see that the constitution of the new Council does not alter the present balance of representation between Europeans and Asiatics. Without going into details, it would appear that there are two alternative methods for effecting this—(a) by inclusion of votes in the new areas in one or other of the wards proposed, or (b) by decreasing the European or increasing the Indian members allotted to the respective Wards for the present boundaries.

#### RAILWAY AND DISTRICT COUNCIL REPRESENTATION.

I am of opinion that the proposed representation of the above is unnecessary and unjustified. The questions that may arise in connection with these bodies are neither so numerous nor so difficult as to be incapable of solution by the ordinary methods of adjustment if properly employed. I am on principle opposed to representation being given on a public body like the Nairobi Municipality to Corporations or other public bodies and I am not convinced by the case made out for special representation of the above two bodies on the Nairobi Municipal Corporation.

(Signed) V. V. PHADKE.

## APPENDIX I.

## LIST OF MEMORANDA RECEIVED AND WITNESSES HEARD.

## NAIROBI.

## MEMORANDA BY:

- Mr. L. GILBERT, Ag.-Town Clerk, Nairobi.
- Mr. C. R. DAVIDSON, Municipal Engineer.
- Mr. W. W. RIDOUT, Superintendent of Suburban Areas.
- Mr. J. A. WATSON, Late Town Clerk.
- Cr. W. F. G. CAMPBELL, Ag. Senior Commissioner, Ukamba Province.
- Dr. F. J. C. JOHNSTONE, M.D., Ch.B., D.P.H. (Edin.), D.T.M. (L'pool), Senior Sanitation Officer, Late Medical Officer of Health, Nairobi.
- Mr. J. M. SILVESTER, Municipal Native Affairs Officer, Ag. District Commissioner, Nairobi.
- Mr. C. E. MORTIMER, Land Assistant, Land Department.
- Mr. DUNCAN BEATON.
- Cr. RIDDELL, Mayor of Nairobi.
- Mr. A. C. TANNAHILL, Director of Upper Nairobi Township and Estates Co., Ltd.
- Cr. M. H. MALIK, and Cr. YUSUFALI MOHAMEDBHAI, Representatives of Indian Association.
- Mr. R. F. MAYER, Managing Director of "The East African Standard."
- Mr. W. B. MAXWELL, C.E., Late Town Engineer of Nairobi.
- Cr. W. C. HUNTER, Deputy Mayor of Nairobi, Member Muthaiga Township Committee.
- Mr. JAMES SCOTT, Assistant Municipal Engineer.
- Dr. A. C. L. DE SOUZA, Goan Representative on Municipal Council.
- The Hon. Mr. C. L. N. FELLING, C.M.G., General Manager, Kenya and Uganda Railway.
- Dr. R. N. HUNTER, Medical Officer of Health, Nairobi.
- Mr. PERCY GREEN.
- Mr. W. C. MITCHELL.

## WITNESSES

## NAIROBI.

- Mr. L. GILBERT, Ag. Town Clerk, Nairobi.
- Mr. C. R. DAVIDSON, Municipal Engineer, Nairobi.
- Mr. W. W. RIDOUT, Superintendent of Suburban Areas, Nairobi.
- Mr. J. A. WATSON, Late Town Clerk, Nairobi.
- Cr. W. F. G. CAMPBELL, Ag. Senior Commissioner, Nairobi.
- Dr. F. J. C. JOHNSTONE, M.D., Ch.B., D.P.H. (Edin.), D.T.M. (L'pool),  
Senior Sanitation Officer, Late Medical Officer of Health, Nairobi.
- Mr. J. M. SILVESTER, Municipal Native Affairs Officer, Ag. District  
Commissioner, Nairobi.
- Mr. C. E. MORTIMER, Land Assistant, Land Department.
- Mr. DUNCAN BEATON.
- Cr. RIDDELL, Mayor of Nairobi.
- Mr. JAMES SCOTT, Assistant Municipal Engineer, Nairobi.
- Mr. W. B. MAXWELL, C.E., Late Town Engineer, Nairobi.
- Mr. G. J. LAING, Building Contractor and Bailiff of Upper Parklands  
Estate.
- Mr. KER, Mr. MACKENZIE and Mr. DUDLEY, Representing Residents of  
Marlborough Estate.
- Cr. W. C. HUNTER, Deputy Mayor of Nairobi, Chairman, Muthaiga  
Township Committee.
- Mr. G. A. HAMILTON.
- Mr. A. C. TANNAHILL, Director, Upper Nairobi Township and Estates  
Company, Limited.
- Mr. SHAMS-UD-DEEN, Indian Member of Legislative Council.
- Mr. J. C. COVERDALE, Surveyor and Land Agent.
- Cr. M. H. MALIK and Cr. YUSUFALI MOHAMEDBHAI, Representing  
Indian Association.
- Mr. R. F. MAYER, Managing Director of "The East African Standard."  
Colonel E. M. LEY, Municipal Councillor, Nairobi.
- Captain H. E. SCHWARTZE, M.L.C., Member, Legislative Council for  
Nairobi South; Member, Muthaiga Township Committee.
- Mr. PERCY GREEN.
- Dr. A. C. L. DE SOUZA, Goan Representative on Municipal Council,  
Nairobi.
- Cr. W. T. SHAPLEY, Municipal Councillor.
- The Hon. C. L. N. FELLING, C.M.G., General Manager, Kenya and  
Uganda Railway.
- Dr. R. N. HUNTER, M.R.C.S. (Eng.), L.R.C.P. (Lond.), D.P.H. (Lond.),  
Medical Officer of Health, Nairobi.
- Mr. W. C. MITCHELL.

## APPENDIX II.

THE CHAIRMAN,  
LOCAL GOVERNMENT COMMISSION.

*28th September, 1926.*

## NAIROBI MUNICIPALITY.

1. I have the honour to submit the following Statements in connection with the financial position of the Nairobi Municipality which have been prepared from the published Accounts of the Council and other information supplied by the Ag. Town Clerk :—

- No. 1. Abstract of Revenue and Expenditure Accounts for year ended 31st December, 1925, showing gross revenue earned and expenditure incurred under the various heads.
- No. 2. Abstract of Revenue and Expenditure Balances for year ended 31st December, 1925, showing Rates, appropriations in aid of Rates, and Government contributions, and how the total amount has been expended.
- No. 3. Statement of Capital outlay at 31st December, 1925, showing how capital expenditure is distributed between loans and other capital funds.
- No. 4. A Statement showing Government loans authorised and amounts actually borrowed by the Council at 31st December, 1925.
- No. 5. A Statement showing Government loans authorised since 31st December, 1925, and further proposed borrowing.
- No. 6. A Balance Sheet showing the Council's financial position at 31st December, 1925.

2. When considering the amount of the surpluses or deficiencies shown against tariff departments, or the amount of expenditure on public works, and other services, the method of charging out Administration and General charges must be taken into account. The system of distributing practically the whole of the Salaries and Offices Expenses of the Town Clerk's, Town Engineer's and Accountant's departments, as well as a large proportion of General charges was, it is understood, adopted some years ago on the instructions of the Council ; and a revised method of calculation which was used for the year ended 31st December, 1925, and which is based upon the estimated time spent by the various officials on different services, but also provides for the distribution of practically the whole of the costs referred to, was approved by the Council. The administration and general costs of the Municipality

can be divided into four sections, and would, under a more usual system of Municipal accounting, be treated as follows :—

(a) TOWN CLERK'S DEPARTMENT.—This expenditure includes the cost of Council and Committee meetings, is mainly occasioned by the form of the Constitution and has very little to do with essential business management. Such expenditure is usually regarded as a separate item of cost and is not distributed. Under the present arrangement, however, the Ag. Town Clerk also carries out the duties of a Treasurer, and to that extent the cost of his department should be subject to different treatment.

(b) TOWN TREASURER'S AND ACCOUNTANT'S DEPARTMENTS.—The expenditure of these departments represents the costs of general financial administration and business management of Municipal undertakings. General financial administration includes all costs which are not incurred in connection with trading undertakings or the larger tariff departments which assume the proportions of commercial undertakings, and is usually regarded as a separate item of cost and is not distributed. Expenditure on trading and tariff departments, based on proportions of salaries and office expenses, is charged to the departments concerned.

(c) MUNICIPAL ENGINEER'S DEPARTMENT.—This expenditure represents the cost of advising the Council in connection with proposed new works, supervising the carrying out of works and technical services in connection with most branches of municipal enterprise, and is usually distributed on the following lines. The cost of work performed for undertakings and services is charged out of the Accounts concerned ; but capital works are only charged with the additional cost they have occasioned ; as, for instance, when the Engineer's Staff is specially increased to deal with new works. The balance of the expenditure remains a charge against Public Works Administration.

(d) GENERAL CHARGES.—This expenditure represents such charges as Mayor's Allowance, Election Expenses, Audit, General Advertising and Legal Charges and Insurance and, in so far as it is not incurred on account of Special Departments or services, should not be charged out.

The system which has been followed has resulted in excessive charges being made against Services, and in order to show the position as clearly as possible the overhead charges allocated have been separated from ordinary maintenance costs in Statement No. I.

3. The following remarks refer to Services carried out by the Council :—

CONSERVANCY.—The revenue of the department represents roughly 90 per cent. on account of Pail Services and 10 per cent. on account of Sewerage. Monthly charges are levied at the rate of 8s. for each Pail

Service and 5s. for Sewerage, and the profit equals more than half of the revenue earned. The Railway Department carries out its own Services and the Municipality obtains no revenue therefrom.

REFUSE REMOVALS.—This is a free service, except that charges are made for removal of refuse in excess of regulated quantities.

SLAUGHTER HOUSE.—The revenue under this head represents fees for inspection of carcases and the use of the Slaughter House. The work of inspection is carried out by an official of the Government Health Department and the Council does not meet the cost of that official.

FUNERALS, CEMETERIES, ETC.—This represents the maintenance of Cemeteries and carrying out burials. The power to conduct funerals is not specially provided under the Municipal Corporations Ordinance, Chapter 84.

ROADS.—The cost of roads has been largely met from Government Contributions, and the position appears to be that the Council has limited its expenditure to an amount below what is really necessary in order to avoid heavy charges falling upon Rates. The Government contributions in 1925 on account of Roads consisted of Crown Rents amounting to £4,856, and Trunk Roads Grant of £780, but a further special contribution of £5,000 has been provided in Estimates for 1925 and 1926. The Estimates for 1926 provide for a considerable increase in Road Expenditure and the amount the Council will probably have to meet, after allowing for Government Grants and including overhead charges, is £8,498.

NATIVE VILLAGES.—The charges levied under this head are 5s. per stand per month, and cover rentals and all services (except supply of water) rendered by the Council. The amount of the charge appears to have been decided by the Council and is not fixed under the By-laws made under the Municipal Corporations Ordinance.

WATER DEPARTMENT.—Water is supplied both within and without the Municipal area and the following approximate analysis of sales has been furnished by the Town Clerk :—

Uganda Railway—supplied under agreement here-			
after referred to at 54 cents for 1,000 galls.	..	15%	
Railway Subordinate quarters, at reduced price	..	3%	
Municipal Area, at tariff rates	.. ..	71%	
Muthaiga	..	} at 25 per cent in excess of tariff rates {	
Westlands etc.			3%
Kilimani, etc.			5%
		3%	

This undertaking shows a small margin of profit, but further capital expenditure is contemplated which will, if incurred, increase the loan charges to be met by upwards of £5,000 per annum. This will to some extent be provided for by the revenue now to be derived from

the Railway Department on the supply which was, under the Agreement hereafter referred to, provided free of charge up to 31st March, 1926, and this may amount to approximately £2,400 per annum, but considerable additional revenue will obviously be required from other consumers in order to avoid losses on trading.

A factor which will influence trading results considerably is the supply to the Railway. Under the Agreement for the purchase of the Scheme by the Council from the Uganda Railway, the Council undertook to supply 150,000 gallons of water daily free of cost to the Railway for five years from the 1st April, 1921, and any quantity in excess of that amount at a price equal to the actual cost of the water supplied, including the proportionate amount of interest and loan charges on capital borrowed for the undertaking. After the expiry of the period of five years (ended 31st March, 1926), the Railway is required to pay for all water supplied at the price prescribed for the excess quantities afore-mentioned. The conditions in regard to payment are vague. Costs vary from month to month and from year to year, but no period to form the basis of charge is agreed upon. The charge now being made to the Railway is at the rate of 54 cents per 1,000 gallons, which is the average inclusive cost for the financial year ended 31st December, 1925, based upon the total quantity of water estimated to have entered the Council's mains. Other consumers pay at the following rates :—

*Within the Municipality.*—Metered supplies : 2s. per 1,000 galls., subject to a minimum of 6s. per month and 1s. per month  
Meter Rent : supplies not metered, 10s. per month.

*Outside the Municipality.*—The above charges plus 25 per cent.  
Charges for water in respect of Standpipes installed outside houses are 50 per cent. in excess of those specified above.

The average cost of water sold cannot be ascertained in the absence of meters, as the loss in distribution is unknown but, if the price charged to the Railway is accepted as the approximate cost, there should be a very considerable profit on metered supplies. The actual profit anticipated in 1926 is only £900 according to the Council's Estimates, which seems to indicate that flat rate consumers are getting water at a very low cost as compared with the others and that, if all consumers were metered, either the revenue would increase or the consumption would fall ; and in the latter case the average cost would go up and the Railway would have to pay at an increased rate. It is understood that of the total number of consumers, approximately 17·5 per cent., representing the bigger consumers, draw supplies through meters.

The Council has realized the necessity for installation of meters throughout the entire system, for the purpose of conserving the supply, and is obtaining authority for the necessary loan funds to be made available.

NATIVE BREWERY.—The business of brewing and selling beer to Natives is carried on under the authority of the Native Liquor Ordinance, Chapter 133, and all profits are paid into a special fund for the benefit of natives. The capital outlay on the brewery and beershop has been met from this fund, and the balance at 31st December, 1925, of £2,037 remained in the hands of the Council.

NATIVE WATER SUPPLY—Water is retailed to the natives in native villages, and profits amounting to £181 had been credited to a special fund at 31st December, 1925.

4. Revenues not derived from payment for services rendered, excluding Government contributions towards roads expenditure and profits on services were :—

Licences ;  
 Government contribution in lieu of Rates ;  
 Assessment Rates on site values at  $\frac{3}{4}$  per cent ; and  
 Miscellaneous Receipts.

*Licences.*—Licence fees are charged in respect of private vehicles (excluding motor vehicles), vehicles plying for hire (including motor vehicles), dogs, and various trades and businesses which require to be controlled for reasons of public health, etc., and are levied in accordance with Bye-laws framed under the Municipal Corporations Ordinance. Licence fees on vehicles belonging to persons having residence or place of business not less than 5 miles from the centre of the township, are charged at the rate of half the prescribed fees. Vehicles belonging to the Government are exempt from registration and the payment of Licence fees.

*Assessment Rates.*—Rates are levied under the “ Nairobi (Rating of Unimproved Site Values) Ordinance ” Cap. 86, upon the Site value of land, exclusive of land owned by the Crown, subject to a maximum of 2 per cent., which cannot be exceeded without the approval of the Governor-in-Council.

The maximum rate levied in any one year has not exceeded  $\frac{3}{4}$  per cent. A revision of the valuation roll is now being carried out by the Council, and a considerable reduction in the rateable value is anticipated. The Rating Ordinance provides that a certain valuation in the possession of the Council shall be the valuation roll for the township, but makes no provision for new valuation rolls to be compiled at stated intervals. The Council, however, is empowered to cause individual re-valuations of rateable property to be made or errors appearing in the roll to be corrected. It has not been found possible to obtain an estimate of improvement values or rental values of occupied property in the Municipal area.

*Government Contribution in Lieu of Rates.*—This contribution is based upon the site value of occupied property, excluding Government House.

5. Loans are obtained for capital purposes from the Government, and the terms of borrowing will only be definitely settled when the amounts are incorporated in loans to be raised by the Government. In the meantime, the Council is paying  $6\frac{3}{8}$  per cent. interest and is contributing  $1\frac{2}{5}$  per cent. to a redemption fund; in all 8 per cent. is therefore being charged against the accounts concerned. Details of loans, authorised, borrowed and proposed are given in Statements 4 and 5, from which it appears that borrowing to the extent of £251,000 is contemplated within the next eight years, £210,000 of which will, it is stated, “be required within two years.” The greater part of these loans will be spent on revenue producing services, which will, however, need to earn considerably increased revenue if they are to meet the additional loan charges. Interest and Redemption on Government Loans of £3,216 was met in 1925 from a gross revenue of rather more than £50,000, and loan charges on the present basis of £251,000 would amount to £20,080; it is hardly possible that such a burden could be borne without a substantial increase in taxation.

Under the Municipal Corporations Ordinance the Council is empowered to raise loans subject to the consent of the Governor with the approval of His Majesty’s Secretary of State for the Colonies. The method of including Municipal Loans in long period Government Loans is not satisfactory, as such purposes as Roads and Plant are not suitable for inclusion in long period loans. It would be sounder if the Government could grant loans to Local Authorities for periods in accord with the lives of the Assets acquired and not for the periods over which it redeems its own borrowing.

6. Other funds from which capital outlay has been met are as follows :—

Uganda Railway—Loan for purchase of Water Scheme.

Grant from Government towards outlay on Native Villages.

Contributions from Revenue.

Contributions from Surplus Revenue—Native Beer Fund.

7. The Loan Redemption Sinking Fund and Depreciation Reserve Funds should be represented by investments, the interest on which would belong to the funds. They are, however, being used temporarily to finance capital outlay in order to avoid borrowing from Government as long as possible, and the consequent payment of interest.

(Signed) E. V. SHILTON.

## STATEMENT No. I.

## NAIROBI MUNICIPALITY.

ABSTRACT OF REVENUE AND EXPENDITURE ACCOUNTS FOR YEAR ENDED 31ST DECEMBER, 1925.  
(EXTRACTS FROM THE PUBLISHED ACCOUNTS OF THE COUNCIL).

EXPENDITURE.				REVENUE.			
	£	£			£	£	
To CONSERVANCY. (Pail Service and Sewerage) :				By CONSERVANCY :			
General Maintenance Charges ..	3,413			Sanitation and Sewerage Fees £11,678			
Loan Charges .. .. .	295			Less provision for bad debts     175			
Proportion of Administration and					11,503		
General Charges .. .. .	1,405			Emptying Kaustines, etc. .. ..	37		
		5,113				11,540	881
„ REFUSE REMOVAL :				„ REFUSE REMOVALS :			
General Maintenance Charges ..	2,502			Fees for Special removals, etc. ..		52	
Proportion of Administration and							
General Charges .. .. .	605		3,107				
„ SLAUGHTER HOUSE :				„ SLAUGHTER HOUSE :			
General Maintenance Charges ..	1,804			Fees for inspection of carcasses .. ..		2,652	
Proportion of Administration and							
General Charges .. .. .	557		2,361				
„ FUNERALS, CEMETERIES, ETC. :				„ FUNERALS, CEMETERIES, ETC. :			
General Maintenance Charges ..	685			Fees for opening graves, reserving			
Proportion of Administrative and				plots and burials .. .. .		696	
General Charges .. .. .	157		842				

„ REMOVAL OF CARCASSES :			
General Maintenance Charges ..	38		
Proportion of Administrative and General Charges .. .. .	36		
	<u>74</u>		
„ NATIVE BURIALS :			
General Maintenance Charges ..	378		
Proportion of Administrative and General Charges .. .. .	73		
	<u>451</u>		
„ PUBLIC LATRINES :			
General Maintenance Charges ..	244		
Proportion of Administrative and General Charges .. .. .	72		
	<u>316</u>		
„ CLEANING OF STREETS AND DRAINS :			
General Maintenance Charges ..	836		
„ ROADS : CONSTRUCTION AND MAINTENANCE :			
Contracts and General Maintenance Charges .. .. .	5,260		
Interest and Redemption .. ..	100		
Depreciation of Plant .. .. .	1,169		
Proportion of Administration and General Charges .. .. .	1,818		
	<u>8,347</u>		
Carried forward ..	21,447		

„ REMOVAL OF CARCASSES :			
Fees .. .. .			64
„ NATIVE BURIALS :			
Burying convicts, etc. .. .. .			10
„ ROADS :			
Government Contribution—			
Crown Rents .. .. .	4,856		
On a/c of Trunk Roads .. .. .	780		
	<u>5,636</u>		
Private Services .. .. .		153	
		<u>5,789</u>	
Carried forward ..			<u>20,803</u>

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STATEMENT No. I. (Continued).

EXPENDITURE.				REVENUE.		
	Brought forward	..	£	£	Brought forward ..	£
To CITY PARK :				21,447		20,803
	General Maintenance and Improve- ments .. .. .		1,180			
	Proportion of Administration and General Charges .. .. .		605			
				1,785		
„ JEEVANJEE GARDENS :						
	General Maintenance .. .. .		201			
	Proportion of Administration and General Charges .. .. .		169			
				370		
„ STREET WATERING :						
	General Maintenance Charges ..			577		
„ STREET LIGHTING :						
	General Maintenance Charges ..		2,881			
	Proportion of Administration and General Charges .. .. .		121			
				3,002		
„ TOWN PLANNING AND BUILDING IN- SPECTION : .. .. .				1,230		

,, FIRE BRIGADE :			
General Maintenance .. ..	..	1,857	
Proportion of Administration and	..		
General Charges .. ..	..	605	
		<u>          </u>	2,462
,, ODD GANG. (SUNDRY PURPOSES) :			
General Maintenance .. ..	..	210	
Proportion of Administration and	..		
General Charges .. ..	..	72	
		<u>          </u>	282
,, JEEVANJEE MARKET :			
General Maintenance .. ..	..	62	
Renovation of Building .. ..	..	163	
Loan Charges .. ..	..	198	
Proportion of Administration and	..		
General Charges .. ..	..	194	
		<u>          </u>	617
,, NATIVE MARKET :			
General Maintenance .. ..	..	149	
Proportion of Administration and	..		
General Charges .. ..	..	121	
		<u>          </u>	270
,, POUND :			
General Maintenance .. ..	..	38	
Proportion of Administration and	..		
General Charges .. ..	..	72	
		<u>          </u>	110
Carried forward ..			<u>32,152</u>

By JEEVANJEE MARKET :			
Stall Rentals and Fees .. ..	..	..	332
			161
,, NATIVE MARKET :			
Fees .. ..	..	..	330
,, POUND :			
Fees .. ..	..	..	152
Carried forward ..			<u>21,617</u>

STATEMENT No. I. (Continued).

EXPENDITURE.				REVENUE.			
	£	£			£	£	
Brought forward ..		32,152		Brought forward ..		21,617	
<i>To</i> DOG POUND :				<i>By</i> DOG POUND :			
General Maintenance .. .. .	51			Fees .. .. .		6	
Proportion of Administration and General Charges .. .. .	36						
		<u>87</u>					192
<i>„</i> NATIVE VILLAGES :				<i>„</i> NATIVE VILLAGES :			
General Maintenance .. .. .	1,042			Stand Rent and Miscellaneous Receipts		1,714	
Loan Charges .. .. .	400						
Proportion of Administration and General Charges .. .. .	799						
		<u>2,241</u>					
<i>„</i> WATER SUPPLY :				<i>„</i> WATER SUPPLY :			
General Maintenance .. .. .	4,576			Sale of Water .. .. .	£11,530		
Loan Charges .. .. .	3,669			Less provision for bad debts	224		
Proportion of Administration and General Charges .. .. .	2,615					11,306	
		<u>10,860</u>		Turning on Fees .. .. .		60	
						<u>11,366</u>	

„ ADMINISTRATION AND GENERAL CHARGES :

SALARIES, ALLOWANCES, ETC. :

Town Clerk, Accountant and General Office Staff .. ..	3,687
Town Engineer and Staff .. ..	2,242
Passages .. ..	126
Gratuity Town Clerk .. ..	2,000
	<u>8,055</u>

OFFICE EXPENSES :

Rent .. ..	780
Stationery .. ..	478
Postage, Telephone and Sundry Charges .. ..	588
	<u>1,846</u>

GENERAL CHARGES :

Mayor's Allowance .. ..	250
Election Expenses .. ..	58
Audit .. ..	200
Advertising .. ..	169
Insurance—General .. ..	124
Legal Charges—General .. ..	78
Miscellaneous .. ..	509
	<u>1,388</u>

Carried forward .. .. 11,289

Carried forward .. .. 45,340

„ MISCELLANEOUS RECEIPTS :

Court Fees, Bank Interest,  
Sundry Rents, etc. ..

697

Carried forward .. .. 35,400

STATEMENT No. I. (Continued).

EXPENDITURE.		REVENUE.	
	£	£	£
Brought forward ..	45,340	Brought forward ..	35,400
<i>To ADMINISTRATION AND GENERAL CHARGES (Continued).</i>			
Brought forward ..	11,289		
LOAN CHARGES—Court Square ..	297		
GENERAL DEPRECIATION :			
Provision for depreciation on Sundry Assets .. .. .	1,221		
	<u>12,807</u>		
Less charged out to Departments and Services .. .. .	11,953		
	<u>854</u>		
<i>To RATING EXPENSES :</i>			
Legal, Advertising and Sundry Charges .. .. .	346		
		By RATE ON SITE VALUES AT $\frac{3}{4}\%$ :	
		Charged against public ..	£11,842
		Less provision made for bad debts .. .. .	1,418
			<u>10,424</u>
		Contribution from Government in lieu of Rates ..	2,484
			<u>12,908</u>

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## ,, LICENSING EXPENSES :

Inspection, Collections, etc. .. ..	691	
Proportion of Administration and General Expenses .. .. .	969	
	<u>1,660</u>	

,, BALANCE : being excess revenue for year

4,311

£52,511

## ,, LICENCES :

Traffic .. .. .	2,103	
Trade and General .. .. .	1,927	
Dog .. .. .	173	
	<u>4,203</u>	

£52,511

195

N.B.—An amount of £1,000, being contribution towards redemption of purchase price of Water Scheme paid to Kenya and Uganda Railway, has been added to expenditure shown against Water Supply, which in the Council's published Accounts is charged against general revenue.

## STATEMENT No. 2.

## NAIROBI MUNICIPALITY.

ABSTRACT OF REVENUE AND EXPENDITURE BALANCES FOR YEAR ENDED 31ST DECEMBER, 1925.

(SHOWING RATES, APPROPRIATION IN AID OF RATES, AND GOVERNMENT SUBSIDIES, AND HOW

THE TOTAL AMOUNT HAS BEEN EXPENDED.)

EXPENDITURE.				REVENUE.			
NET EXPENDITURE AFTER DEDUCTION OF DIRECT EARNINGS :—				AMOUNT RATES ON SITE VALUE AT $\frac{3}{4}\%$ :			
PUBLIC HEALTH SERVICES :				Charged against public .. .. .			
Refuse Removals .. .. .	£	£		£		£	
Funerals, Cemeteries, etc. .. .. .	3,955			11,842			
Removal of Carcases .. .. .	146			Less provision for bad debts .. .. .		1,418	
Native Burials .. .. .	10						10,424
Public Latrines .. .. .	441			LICENCES :			
Cleaning of Streets and Drains .. .. .	316			Traffic .. .. .		2,103	
	836			Trade and General .. .. .		1,927	
		4,804		Dog .. .. .		173	
							4,203
PUBLIC WORKS, ETC. :				GOVERNMENT SUBSIDIES :			
Roads Construction and Maintenance .. .. .	8,194			Contribution in lieu of rates .. .. .		2,484	
City Park .. .. .	1,785			Crown Rents : on a/c of Roads .. .. .		4,856	
Jeevanjee Gardens .. .. .	370			Contribution—Trunk Roads .. .. .		780	
Street Watering .. .. .	577						8,120
Street Lighting .. .. .	3,002						
Town Planning and Building Inspection .. .. .	1,230						
		15,158					

SUNDRY DEPARTMENTS :				
Fire Brigade	..	..	2,462	
Odd Gang—Sundry purposes	..	..	282	
Jeevanjee Market	..	..	285	
Dog Pound	..	..	81	
Native Villages	..	..	527	
			<u>3,637</u>	
ADMINISTRATION AND GENERAL :				
Salaries, Office Expenses and				
General Charges	..	..	£12,807	
Less charges out to Depart-				
ments and Services	..	..	11,953	
			<u>854</u>	
Rating Expenses	..	..	346	
Licensing Expenses	..	..	1,660	
			<u>2,860</u>	
BALANCE : being excess revenue for year ..				4,311
			<u>£30,770</u>	

MISCELLANEOUS RECEIPTS	..	..	..	697
NET REVENUE AFTER MEETING COSTS OF DEPARTMENTS CONCERNED :				
Conservancy and Sewerage	..	..	6,427	
Slaughter House	..	..	291	
Native Market	..	..	60	
Pound	..	..	42	
			<u>6,820</u>	
WATER TRADING DEPARTMENT :				
Appropriation from profits	..	..	506	
			<u>197</u>	
			<u>£30,770</u>	

## STATEMENT No. 3.

## NAIROBI MUNICIPALITY.

## STATEMENT OF CAPITAL OUTLAY FROM LOANS AND OTHER CAPITAL FUNDS AT 31ST DECEMBER, 1925.

	Total Expenditure.	Government Loans.	Uganda Railway Loan.	Government Grant.	Revenue Contri- butions.	Temporarily met from Reserve Funds.	Native Beer Sp. Fund.
	£	£	£	£	£	£	£
Water Scheme .. .. .	47,947	15,873	20,000	—	1,395	10,679	—
Native Location .. .. .	7,039	5,000	—	1,500	145	394	—
Sewerage .. .. .	3,734	3,734	—	—	—	—	—
Jeevanjee Market .. .. .	8,000	8,000	—	—	—	—	—
Court Square .. .. .	12,000	12,000	—	—	—	—	—
Native Housing Scheme .. .. .	252	252	—	—	—	—	—
Native Market .. .. .	3,072	3,020	—	—	—	52	—
City Park Buildings .. .. .	2,307	—	—	—	2,307	—	—
Slaughter House .. .. .	1,437	—	—	—	1,437	—	—
Fire Station .. .. .	1,105	—	—	—	1,105	—	—
Sundry Buildings .. .. .	11,501	3,123	—	—	8,378	—	—
Plant and Tools .. .. .	13,168	5,554	—	—	7,614	—	—
Oxen .. .. .	2,105	—	—	—	2,105	—	—
Office Furniture, etc. .. .. .	1,409	—	—	—	1,409	—	—
Mayor's Robe and Chain .. .. .	122	—	—	—	122	—	—
Native Brewery and Beershops	1,068	—	—	—	—	—	1,068
TOTALS .. .. .	£ 116,266	56,556	20,000	1,500	26,017	11,125	1,068

## STATEMENT No. 4.

## NAIROBI MUNICIPALITY.

STATEMENT OF GOVERNMENT LOANS AUTHORISED AND AMOUNTS  
BORROWED AT 31ST DECEMBER, 1925.

	Authorised Loans.	Amount Actually Borrowed.	Balance Available.
Roads : Plant, Depot and Boys' Huts .. .. .	£ 10,000	£ 8,677	£ 1,323
Native Locations : Buildings, Sewerage, etc. .. .. .	5,000	5,000	—
Sewerage .. .. .	10,000	3,734	6,266
Water Scheme .. .. .	30,000	15,873	14,127
Jeevanjee Market .. .. .	8,000	8,000	—
Court Square .. .. .	12,000	12,000	—
Native Housing Scheme .. .. .	16,000	252	15,748
Roads and Sanitation .. .. .	1,980	—	1,980
Native Market .. .. .	3,020	3,020	—
	£ 96,000	56,556	39,444

## STATEMENT NO. 5.

## NAIROBI MUNICIPALITY.

STATEMENT OF GOVERNMENT LOANS AUTHORISED SINCE  
31ST DECEMBER, 1925, AND FURTHER BORROWING PROPOSED.

AUTHORISED SINCE 31ST DECEMBER, 1925.

WATER SCHEME .. .. . £29,000

Further Proposed Borrowing :—

Required.	At once.	Within 2 years.	In 2—8 years.	TOTAL.
	£	£	£	£
Water Scheme .. ..	16,538	15,500	—	32,038
Sewerage .. .. .	—	9,466	25,000	34,466
Roads and Drainage .. ..	—	13,500	8,000	21,500
Disinfecting Station .. ..	1,000	—	—	1,000
Slaughter House .. .. .	8,000	—	—	8,000
Public Latrines .. .. .	1,500	—	—	1,500
Native Housing .. .. .	—	16,000	—	16,000
Native Location—Roads and Drainage .. .. .	—	—	2,000	2,000
City Park Buildings .. ..	—	750	300	1,050
Garage and Sundry Buildings	—	1,500	1,500	3,000
Fire Brigade .. .. .	—	1,000	—	1,000
Incinerator .. .. .	—	—	4,000	4,000
Native Market—Excess on Authorised Loan .. ..	52	—	—	52
Native Location— Do. ..	394	—	—	394
£	27,484	57,716	40,800	126,000

Summary of Total Loans authorised and proposed :—

Authorised at 31st December, 1925 ..	96,000
Authorised since 31st December, 1925 ..	29,000
Proposed further borrowing .. .. .	126,000
	<u>£251,000</u>

## STATEMENT No. 6.

## NAIROBI MUNICIPALITY.

BALANCE SHEET AT 31ST DECEMBER, 1925.

LIABILITIES.				CAPITAL OUTLAY AND ASSETS.			
LOANS :		£	£	CAPITAL OUTLAY :		£	£
Government .. .. .		56,556		Water Scheme .. .. .		47,947	
Uganda Railway .. ..	£20,000			General .. .. .		68,319	
Less amount repaid ..	3,442						116,266
		16,558					
			73,114				
OTHER CAPITAL FUNDS :				SUNDRY DEBTORS :			
Loans repaid .. .. .		3,442		Rates, Charges, etc. .. .. .		21,003	
Government Grant—Native Villages ..		1,500		Less Reserve for bad debts .. .. .		3,429	
Contribution from Revenue .. .. .		26,017					17,574
Do. Native Beer Fund .. .. .		1,068					
			32,027				
TEMPORARY LOAN FROM RESERVE FUND ..			11,125				
			116,266				
Carried forward ..		£116,266		Carried forward ..		£133,840	

STATEMENT No. 6 (Continued).

LIABILITIES.					CAPITAL OUTLAY AND ASSETS.				
	Brought forward	..	£	£		Brought forward	..	£	£
				116,266					133,840
SUNDRY CREDITORS :									
	Loan Interest	.. .. .		2,653					
	Trade Account	.. .. .		4,363	STORES .. .. .				5,793
	Deposit	.. .. .		16					
				<u>7,032</u>					
	LOAN REDEMPTION SINKING FUND	..		1,491	CASH AND INVESTMENTS :				
RESERVE AND SPECIAL FUNDS :									
	Provision for depreciation and renewal of assets	.. .. .		17,223	Loan to Capital Account	.. .. .		11,125	202
	Liability for passages Staff	.. .. .		190	Cash at Bank and in Hand	.. .. .		10,754	
	Native Beershops—Surplus Revenue	.. .. .		2,037				<u>21,879</u>	
	Native Water Supply—Surplus Revenue	.. .. .		181					
				<u>19,631</u>					
	REVENUE FUND ACCOUNT	.. .. .		17,092					
				<u>£161,512</u>				<u>£161,512</u>	

## APPENDIX III.

THE CHAIRMAN,

LOCAL GOVERNMENT COMMISSION.

1. I have the honour to submit the following remarks on method of raising revenues for Municipal purposes, both by means of charges for services and direct taxation.

2. I will first outline the system which is followed in the Transvaal Province of South Africa, where Municipal revenues are divided into three main classes, as follows :—

(a) For services rendered to individual persons or premises which are necessary on the grounds of public health or public convenience, charges are made by means of special tariffs to the persons or owners of property concerned. Such tariffs are not usually framed with a view to recovering the whole cost of the services rendered where such a course would impose an unduly heavy burden on a limited number of persons ; but some services are made to pay their way or even earn considerable profits. Among services on which losses are incurred can usually be found—slop and bath-water removal service, cemeteries, Town Halls, swimming baths, public conveniences, building inspection and survey. Those which usually pay for themselves or make profits are—sanitation pail and rubbish removal services, sewerage, native locations, pounds.

(b) For services rendered to the public which come under the head of Municipal trading, direct charges are made for the services rendered or commodities supplied. The ideal aimed at, which is not always attained, is to make each trading department a self-supporting and self-contained concern. Such departments are required to make provision for loan charges on Capital outlay, a proportion of general administration costs, and adequate reserves for depreciation of assets, after which any surpluses or deficiencies should be carried forward to be adjusted in future years by revision of tariff charges. Among trading concerns conducted by local authorities are found—water supply, electric light and power supply, gas supply, tramways, buses, and public transport services, produce and livestock markets, abattoirs. In actual practice in the Transvaal, Councils have found it easier to supplement general revenue by appropriating profits on trading than to obtain the funds required by increased direct taxation, and it is questionable if public opinion, which is not well-informed on such matters, provides a sufficient check against such a policy being pursued to an excessive degree. Sometimes it is found necessary to conduct trading concerns at a loss, and this is not uncommon in the case of public transport services.

(c) Expenditure on account of services rendered, the benefits of which cannot be accurately allocated to individual persons or premises,

is met from direct taxation, profits appropriated from trading and non-trading departments and sundry revenues. Direct taxation takes the form of Assessment Rates and Licences. Expenditure provided for in this way includes general and public health administration, public works such as roads and drainage, parks and recreation grounds, public lighting, fire brigades.

3. Charges for services are fixed by tariffs framed by the local authorities and approved by the central authority, which in the Transvaal, is the Executive Committee of the Province. All tariffs must have a general application, that is, they cannot differentiate in favour of any particular bodies, persons, or sections of the community. This does not prevent, however, the charging of different prices under the same tariff for services which have different values, and it is customary to provide in connection with such services as the supply of water and electricity for reduced charges to large consumers.

4. Licence fees are fixed by approved tariffs in the same way as charges for services. Licences fall under two heads—Traffic and Dog Licences—the revenues from which are imposed primarily to cover costs of supervision and inspection by Public Health Officers, but the charges for which may be, and often are, fixed with a view to supplementing general revenue.

5. Charges for sewerage and sanitation, including slop-water and refuse removal services, are payable by the owner of the property concerned, but may be recovered from the tenant, who is then entitled to deduct any amount so paid from the rent due to the owner. Such charges are secured on the property by providing that no transfer of premises shall be registered without production of a certificate that all amounts due for a period of two years immediately preceding the date of application for transfer have been paid to the local authority. Other charges are recoverable from the persons to whom the services are rendered on conditions regulated by bye-law. Different methods are adopted in order to avoid loss to revenue, and include payment in advance, security deposits and the cutting off of supplies such as electricity and water in the event of non-payment.

6. Before explaining the Transvaal system of rating, a few general remarks on the subject of rating on property values may be of use. The usual systems of assessment are as follows :—

(a) A percentage or amount in the £ on Site Values, *i.e.*, the Capital value of land ;

(b) A percentage or amount in the £ on the Capital value of land and improvements, the incidence of which may be equal or unequal as between land and improvements ;

(c) On annual rental values of property.

The two factors usually taken into account when imposing rates are (a) benefits conferred, and (b) ability to pay. The former represents the added value of land due to and convenience occasioned by

Municipal improvements such as roads, drainage, footpaths, etc., and better conditions brought about by municipal activities. Ability to pay has a limited application and is measured by the value of the particular form of fixed property selected for taxation held by a ratepayer in the municipal area concerned. The whole question, as far as it relates to taxation on the Capital value of land and improvements, was investigated in the Transvaal by the Local Government Commission of 1915, and I cannot do better than refer to certain of the conclusions and recommendations arrived at. The first Minority Report only is quoted, as alterations to the Law were based to a large extent on the recommendations contained therein. The system of taxation in force when the Commission considered the question was assessment on the combined Capital value of Site and Improvement Values, and the following is an extract from Chapter 10 of the first minority report :—

#### 1.—PRESENT SYSTEM OF TAXATION.

From a survey of the present system of Municipal Taxation in the Transvaal, it appears that buildings are more heavily taxed than land. The taxation payable in respect of buildings is both proportionately and actually heavier than the taxation payable in respect of land ;

(1) Buildings bear a share of taxation which is proportionately a heavier share than the burden borne by land, because the owners of house property are compelled to contribute to the profits made on certain municipal services, whilst owners of land which is not built upon make no contribution to such profits.

(2) Apart from this question of contribution to profits on municipal services, in all municipal areas, save one, the amount actually paid by way of assessment rates in respect of buildings is greater than the amount paid in respect of land owing to the higher figure at which buildings stand in the valuation roll.

#### 2.—OBJECTIONS TO PRESENT SYSTEM.

The present division of the burden of Municipal Taxation between land and buildings, which casts the major part of the burden on buildings, is neither just nor expedient :—

(a) It is not just, because municipal improvements tend to enhance land values, not building values, and taxation should, as far as possible, be proportionate to benefits received ;

(b) It is not expedient, because

(1) taxation on buildings tends to check building, and therefore to keep up rents ;

(2) relief of land of its fair share of the burden of taxation tends to encourage landowners to withhold land from the market, in the hope of eventually obtaining an enhanced price, and to keep up the price of vacant land against purchasers desiring to build, and thus conduces to undue economy in the use of sites and crowding of buildings on area.

#### 3.—REASONS AGAINST ENTIRE EXEMPTION OF IMPROVEMENTS.

While, in our opinion, the burden of Municipal Taxation requires to be readjusted so as to diminish the share of that burden which at present falls on

buildings, we do not recommend the entire exemption of buildings and improvements from taxation. We consider the following reasons make entire exemption inadvisable :—

(1) Entire exemption of improvements would in many municipal areas involve excessive rates on land values.

(2) In established towns the change from rating land and improvements equally to rating land values only might, if made at one stroke, produce such a drop in values as to shake confidence.

(3) Entire exemption of improvements is likely to drive Councils to further taxation through profits on commercial services, and thus to exaggerate what is already an objectionable tendency in Municipal Budgets.

(4) Taxation on land values cannot be shifted, and will, therefore, under present conditions be borne by a small minority of Municipal voters who will be at the mercy of the majority.

(5) Heavy rates on land values tend to cause crowding of buildings on areas in central portions of towns.

(6) If a rate on land values will not produce adequate revenue for municipal needs, a rate on improvements is the best supplementary source of revenue, because :—

(a) expenditure on municipal improvements and services helps to maintain though it does not create the value of buildings ;

(b) part of a rate levied on buildings is paid by the tenant, and it is reasonable that the residents in a town who are not owners of rateable property should make some contribution towards municipal expenditure from which they derive benefit and which they help to control ;

(c) a rate on land values is not in exact proportion to benefits received from municipal expenditure ; to prevent inequity resulting from too high a rate on land values recourse may become necessary to taxation on the basis of ability to pay, and on this basis a supplementary rate on buildings is as fair a means of raising revenue as any that is open to municipal bodies.

#### RENTAL VALUES RATE.

7. It is claimed that a rate on rental values has an advantage over a rate on Capital values because it is usually charged against occupiers and is paid, therefore, by a greater number of persons, and that this factor is responsible for a more active interest being taken in municipal affairs by the public. Whether such is the case or not I do not know, but the system appears to me to have the following disadvantages :—

(a) The real value of land is not taxed if the land is not put to the most beneficial use.

(b) The rate cannot be divided between the owners of different interests, as, for instance, when property is held under leasehold title.

(c) A rental value rate is a very heavy tax on occupied property unless it is combined with some other form of rate, and that involves the cost of separate valuations and additional labour in collection.

(d) A rental value rate is based upon the annual revenue of land and improvements ; if, therefore, a Site Value rate is also levied, the distribution of the rate between land and improvements cannot be regulated with the same certainty as if the rates are levied on Capital values.

8. I am putting forward the Transvaal system as a model, not only because I am more familiar with it than with any other system, but because it is modern and was designed to remove as far as possible the anomalies of the older system of rating on Rental Values.

The system was inaugurated in 1903, and, although there has been much controversy on the question of the apportionment of rates as between Site Values and Improvement Values, the real basis of the system, the separate rating of all interests—including the full value of land which is not being put to the best possible use—on the Capital or selling value of such interests, has not been seriously challenged. Rating in the Transvaal is governed by a special Ordinance which applies to all local authorities in the Province. Every interest in land (including improvements) is declared to be rateable property, and all persons being legal owners of any interest, whether as freeholders, leaseholders, holders of any servitude or right or concession over land, are rated on the value of the particular interests they own. A leaseholder, however, is not an owner of a rateable interest except under a lease of not less than ten years, or for the natural life of any person mentioned therein, or which is renewable from time to time at the will of the lessee indefinitely or for periods which together with the first period thereof amount in all to not less than ten years. Practically all land in the Transvaal is held in freehold, except mining ground to which special conditions attach, so the difficulties created by the multiplication of interests owing to leasing and sub-leasing of property have been few. Rates levied upon the Capital value of rateable property and local authorities are given power to charge the rates entirely upon Site Values or to apportion the charge between Site Values and Improvements, subject to conditions in regard to maximum rates. The following rating powers can be exercised by local authorities without reference to any other authority :—

(a) An original rate of 1d. in £ on Site Values must be imposed before any other rate can be imposed.

(b) If Councils decide to tax Site Values only, then an additional rate of 6d. in the £ may be imposed.

(c) If Councils decide to tax Improvements, the maximum additional rate may not exceed 3d. in the £ on Site and Improvement Values taken together ; such additional rate may be apportioned between Site Values and Improvements at the option of the Council, provided the amount in the £ levied on improvements does not exceed the amount in the £ levied on Site Values (exclusive of the original rate of 1d.).

9. The principal towns where the system of Site Value rating has been adopted are in mining or industrial areas, where practically all land is in the hands of private Companies or persons or is proclaimed mining ground, the surface rights of which are vested in the Crown, and can only be used for specific purposes under permits from the Mines Department. The country towns, which nearly all possess large areas of unoccupied land belonging mainly to the local authorities, have continued to impose rates on both land and improvements in varying proportions ; but a tendency has been shown to relieve residential property of taxation to a considerable extent by imposing a lower rate on improvements than on land.

Site Value rates have been levied in a number of cases to the full extent of the legal maximum, viz., 7d. in the £, and instances have occurred where authority has been obtained to levy in excess of that amount.

10. I venture to offer the following comments on the form of rating in operation :—

(1) Increases in the value of property due to growth of population and industry attach to the land, as improvements can always be replaced at a certain cost ; and this form of unearned increment is therefore directly taxed if rates are levied upon Site Values. This consideration, as well as the desire to make speculation in land less remunerative, has largely influenced Councils in adopting the system of rating Site Values, and the heavy burden thus thrown upon Township Companies and other owners of vacant land is considered to have contributed towards reductions in selling prices.

(2) Where no improvement rate has been levied the taxation on residential property has been much reduced, and owners have been able to improve their properties without being called upon to pay increased taxation.

(3) It has been found that the imposition of the maximum rate on Site Values has, in the areas where a surplus of building stands has existed, hastened already declining values, and has brought selling prices down to a point which could not otherwise have been reached. When the demand for ground has been maintained, values have remained in spite of the Site Value rate, and it is probable that the effect of the tax on selling prices has been slight.

(4) The total rating power of local authorities in established towns has been affected to a greater extent by low land values when Site Value taxation has been adopted than when a rate on improvements has also been charged, and in cases where total improvement values have largely exceeded Site Values, the amount of revenue produced by Site Values rates has not been sufficient

to enable Councils to proceed with reasonable schemes of development. This is largely the cause of the excessive profits which are being made by certain Councils on trading concerns.

(5) There is no doubt that in the Transvaal the tendency for some years has been to elect many members of Councils who have had little or no regard for the interests of ratepayers, and that tendency has been more marked in the areas where Site Value taxation has been adopted than in other areas. It would seem only reasonable to suppose that voters who feel that they have no direct financial responsibility will not consider the character and ability of the Councillors they vote for to the same extent as those who have to make direct contributions to municipal rates, but whether the average occupier of property fails to realise that he is making a contribution towards rates through his rent is open to question. Perhaps the real reason for the election of Councillors who are more careful of public expenditure in country towns in the Transvaal can be found in the circumstance that property owners represent a much greater proportion of the electorate than is the case in mining or industrial areas.

(6) There is a not inconsiderable part of the general recurrent or maintenance expenditure of local authorities not charged to individuals, which does not benefit land in the same way as outlay on permanent improvements, and the view is widely held that to tax the owner of land only to meet such expenditure is carrying the system of Site Value taxation too far.

(7) Land values normally decrease as the distance from the centre of the town increases and, as municipal expenditure is naturally much heavier at the centre, Site Value taxation has, on broad lines, some relation to benefits received. It does not, however, follow that the obligations of a Council will necessarily be less in areas where low values prevail; indeed, it is not uncommon to find that such areas are cut up into smaller lots than select residential areas, which usually carry high values, and greater expenditure is involved by the increased length of streets. It is, as a matter of fact, claimed that injustice is caused by Site Value taxation in areas where land in different districts, but in the same municipal area, has widely varying values. For instance, in one district building stands may have a selling value as low as £20 or £30, and in another £200 or £300 may be obtainable for stands of the same size. There may be little difference in the cost of municipal improvements and services required in the two districts, but the one will contribute in rates proportionately only one-tenth of the amount which is contributed by the other. Such inequalities do not arise to any extent, except in cases of vacant land, when an improvement rate is levied.

II. The incidence of rates as between owners and occupiers of property, and the effect of taxation on values, depend largely upon conditions. The owner of unoccupied land is taxed on Capital and, if he is not compensated by increased value or cannot put the land to beneficial use, he will be forced to suffer loss eventually from depreciated value. In the case of occupied property, the owner expects to obtain from rents, after allowing for maintenance, depreciation and rates, a reasonable rate of interest on the Capital Value. If he ceases to obtain such a rate of interest he will suffer loss through depreciated selling value, which to some extent taxation will have influenced.

The amount of rent paid by an Occupier to an Owner of the property does not rise or fall in proportion to the amount of taxation levied, but is governed by conditions of supply and demand. It is true that increased demand usually means increased rent, and in consequence increased value and taxation, but an increase in taxation without an increase in demand does not necessarily enable a landlord to charge more rent. The imposition of rates which have not before been charged or the increase of existing rates can, therefore, be expected to cause loss in two directions, (a) the payment of the rate; (b) depreciated selling value of the property; and although the final incidence of rates is difficult to determine, I think for practical purposes it can be considered that taxation on vacant land always falls upon the owner; and that, in the case of occupied property, the incidence falls upon both the owner and occupier in proportions varying according to the net revenue derived from rentals. However that may be, conclusions can, I think, be drawn:—

(a) That the entire exemption of improvements cannot be recommended where property values are uncertain owing to a surplus of available land because, where such conditions exist, a Site Value rate on unoccupied land would constitute a levy on Capital, and might, if continued long enough, influence falling values to such an extent that it would no longer be worth while to pay rates to retain possession of land producing no income. The rateable value of unoccupied land having been seriously diminished would bring about a general reduction of land values, and taxation on improvements would have to be imposed to make up the deficiency in rates.

(b) That the entire exemption of improvements may be justified if:—

(1) Land is rising in value owing to growth of population and industry, or is capable of bearing taxation because of anticipated future expansion.

(2) Land has acquired a fictitious value because areas required by the community for development are being withheld from the market in the hope of obtaining enhanced prices.

12. The following interests in land held by the Crown in the Transvaal are rateable in all municipal areas except certain specially exempted mining towns :—

- (1) Vacant land.
- (2) Property let or leased by the Crown, including residences of Government officials, if rent is payable by them.
- (3) Property used for residential purposes by persons employed by the South African Railways. (This interest is rateable in all areas, not excluding mining towns.)

The Local Government Commission of 1915 recommended :—

“ That the Crown be assessed in respect of any land or interest in land held by it for any other than strictly Government purposes.”

13. Under the Transvaal Rating Ordinance, the following interests are exempted from rating :—

- (1) Land used exclusively for public worship.
- (2) Land used for schools registered in the office of the department of Public Education or boarding houses or hostels maintained in connection with such schools.
- (3) Land used for both public worship and education.
- (4) Land used for charitable institutions supported entirely by voluntary contributions.
- (5) Land used for sport or recreation and controlled in accordance with rules approved by the local authority, provided that an interest in land used as a recreation ground conducted for profit or as a race-course shall not be entitled to the benefit of this exemption.

These exemptions only apply in so far as the interests are held for the purposes mentioned, thus—An owner of property which is leased or let to an institution exempt from taxation on an ordinary business basis would be liable for rates, but if the institution itself owned the property it would be entirely exempt.

14. In the Transvaal, land being not less than one morgen in extent, *bona fide* and exclusively used as agricultural land, is rated upon half its agricultural value. In the first Minority Report of the Transvaal Local Government Commission of 1915, it was recommended that :—

“ (a) Rates levied on land used for agricultural purposes shall be levied on half the agricultural value of such land ; and

“ (b) Where such land has a value in excess of its agricultural value, rates shall also be levied on the full amount of such excess value.”

These recommendations were accepted and made law, but subsequently (b) was repealed, with the result that where land used for agricultural purposes has acquired added value by its suitability for building, such added value entirely escapes taxation.

15. The Transvaal Rating Ordinance provides for the levying of special rates to recover in whole or in part any extraordinary expenditure incurred by the local authority in respect of some particular area of rateable property, over and above expenditure common to the whole Municipality, upon rateable property in the area concerned. The Local Government Ordinance of 1912 (as amended) provides for the levying of special rates for Tramways and Water schemes on the Site Value of land in the special areas affected ; provided that no such schemes shall be proceeded with if two-thirds of the owners of rateable property in the areas in which it is proposed to impose such special rates shall petition the Council not to proceed therewith. In the first Minority Report of the Transvaal Local Government Commission of 1915, it is recommended that all special rates referred to above shall be levied upon Site Value only and that the special conditions applying to Tramway and Water schemes shall be applied to all other purposes for which special rates may be levied ; and further, that provision should be made for the adoption of an alternative basis of special assessment in substitution for land value which would make the contribution of each owner to an improvement scheme correspond more closely to the value of the benefit received.

The power to impose special rates to meet capital or extraordinary expenditure has been used very sparingly hitherto, due, I think, to the feeling that it would not be altogether fair to make particular property owners contribute directly towards the cost of improvements which have previously been made in other parts of a town without any special contributions being required. This is especially the case in connection with the construction of roads, drainage, and kerbing and guttering, on account of which in many municipalities loans are still being repaid from general taxation. It is fairly generally recognised, however, that extensions to water schemes should not be made without special contributions from the areas concerned (but not necessarily in the form of rates) unless it can be shown that no loss will be incurred on the supply to such areas.

No legislation has been introduced with a view to the substitution of an alternative basis of special assessment as suggested by the Commission but, in the case of extensions to Water and Electric schemes, arrangements are frequently made with the owners of property providing for contributions towards Capital outlay on the basis of cost. The principle of charging owners of property with a proportion of the cost of paving footpaths has also, to some extent, been brought into use, but difficulties would occur in applying such a system to roads and the drainage thereof, owing to the fact that roads are frequently main arteries of communication and are not of benefit merely to the localities in which they are situated.

Provision was made by an amendment to the Townships Act in 1925 that the Administrator, in approving an application for the

establishment of a township within any Municipality, shall lay down as a condition either :—

(a) That the owner shall cause to be carried out such work in connection with the construction of streets in the township as may be laid down ; or

(b) That the owner shall pay such percentage of the purchase price of lots sold as may be fixed by the Administrator for expenditure on the forming, kerbing, channelling, and draining of all streets and for such expenditure as may be incurred on providing the township with the available municipal services, such as water, tramways, light, and sewerage, provided that the Administrator may, with the concurrence of the local authority concerned, determine that the owner shall transfer lots in the township in lieu of the whole or part of such payment.

In actual practice for a number of years past Estate owners have contributed towards the initial outlay on townships established in municipal areas, either by means of a percentage on proceeds of sales of lots, or by transfer of a portion of lots in the townships to the Municipalities. The amount of the contribution in each case forms the subject of a recommendation by the Townships Board and is arrived at after full investigation into the probable cost of providing necessary roads and services. A special Endowment Fund is then created to which all sums received from the Estate owners or derived from sales by the Council of township lots are credited ; and such fund is used exclusively for development of the township concerned. This system has to a certain extent prevented the establishment of unnecessary townships and has enabled local authorities to deal with new areas, without throwing a large portion of the burden upon existing ratepayers.

There does not seem to be any reason why such a course should not be adopted in the case of all new townships established, whether they are in areas controlled by local authorities or not.

16. The basis of valuation is defined as the Capital sum which any rateable property might be expected to realise if offered at the time of valuation for sale on such terms and conditions as a *bona fide* seller would require ; provided that no lease which is not defined as rateable property shall be taken into account in valuing any property which is subject to such lease.

The Valuation Roll is prepared not less than once in every three years by a Valuer appointed for the purpose, who is given all powers necessary to the carrying out of the work, after which it lies in the office of the local authority for inspection, and objections are called for in the Government *Gazette* and local newspapers. Objections are considered by a specially constituted Valuation Court, which is usually composed of members of the Council, and any necessary alterations

are made. The right of appeal by property owners or the Council from the decision of the Valuation Court is provided for.

The Council has power to adjust the Valuation Roll from time to time in respect of omissions, new rateable property or property demolished, and to cause re-valuations, corrections and new apportionments of rateable property to be made.

17. Under the Local Government Ordinance of 1912 (as amended), the Administrator has power, when a new local authority is constituted, to exempt any part of the area from the provisions of the Rating Ordinance, and thereafter, in whole or in part withdraw such exemption.

18. Rates are payable by the owner of a rateable interest as defined by the Rating Ordinance, but may be recovered from the tenant, who is then entitled to deduct any amount so paid from the rent payable to the owner. Rates are secured on the property and a provision is made that no transfer of premises shall be registered without production of a certificate that rates for a period of two years immediately preceding the date of application for transfer have been paid to the local authority.

19. Rates at present levied in the Transvaal are as follows :—

In Mining and Industrial Towns, where the Site Value form of taxation is in existence, rates are more often than not imposed to the full extent of the legal maximum, viz., 7d. in the £; and authority has at different times been obtained by Councils to impose rates in excess of such maximum.

In Country Towns, rates are usually imposed upon land and improvements and, except in small villages, are rarely less than 4d. on land and 2d. on improvements. Rates of these amounts have been levied in Potchefstroom, which is an agricultural and educational centre where the community is not by any means a wealthy one, and many small villages are rated to an almost equal extent without creating any undue hardship.

(Signed) E. V. SHILTON.

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## APPENDIX IV.

## PREVENTION OF MALARIA IN NAIROBI.

It is common knowledge that the incidence of malaria in Nairobi during the first half of the present year was considerably in excess of that experienced in recent years. Malaria is not a notifiable disease and therefore no figures are available by which its prevalence can be indicated.

During the first half of 1926, 47 persons of all races were reported to have died from malaria. This is equivalent to an annual death rate of 3.1 per thousand of the population living. For the same period, 1925, the rate was 0.33, and in 1924, 1.2.

During the present year Nairobi, in common with most other parts of the country, has suffered from the presence of excessive numbers of mosquitoes, including varieties capable of transmitting malaria, and it is to this fact that the increase in the incidence of this disease is directly due. Many theories have been advanced in attempts to explain the unusual prevalence of these insects, but it is doubtful if the true reason has yet been discovered. Whatever the explanation may be, the incontrovertible fact remains that in Nairobi there are numerous places where facilities exist for the multiplication of mosquitoes. Some of these breeding grounds are permanent, others are in existence only in wet weather.

The situation in Nairobi therefore is such that, given favourable climatic and other conditions, a severe epidemic of malaria is not only possible, but to be expected.

The breeding grounds in Nairobi may be divided roughly into four distinct groups :—

- (a) Collections of surface and waste water.
- (b) Pits and excavations of various kinds.
- (c) Natural rivers and streams.
- (d) Irrigation works.

(a) *Collection of Surface and Waste Water.*

Of these by far the most important is the system of earth roadside drains found throughout Nairobi. The roads of the township and suburbs having sprung into existence with little or no regard to lines of drainage and sewerage, show irregular gradients and undulations. The roadside drains follow the same gradients and, in many cases, the middle of the length being at a lower level than the ends, retain rather than drain away the water contained therein. During wet weather many of these drains will be found to retain large collections of standing water, which only slowly disperses by percolation and evaporation. Not less important are the irregularities in the beds of

these drains, numerous small cups and depressions exist throughout their lengths and provide pools and puddles ideal for mosquito breeding.

Such a position is sufficiently undesirable, but bad is made worse by the fact that these drains also receive waste water from dwellings and other premises, and, as a result, a condition unavoidable during wet weather owing to surface water is prolonged into the dry season. There are many roadside drains in the township which throughout the year contain stagnant water from this cause.

The Municipal Bye-laws forbid the use of these drains for that purpose, but in many instances it is disregarded, notably in the case of Government Bungalows, and in others no other means exist for disposal of waste water.

There may also be mentioned collections of water from various sources allowed to collect on private premises in connection with stand-pipes, kitchens, etc.

(b) *Pits and Excavations.*

Throughout Nairobi and its environs there are numerous pits and excavations. These are for the most part quarries and borrow pits, some still in use, others abandoned without steps being taken in respect to filling or drainage. Such places hold water during the rains and for a considerable time afterwards. They are prolific breeding places for mosquitoes.

(c) *Natural Streams and Rivers.*

Of these there are many, and all, to a greater or less degree, supply facilities for mosquito multiplication. They are less dangerous during the wet weather when they run full with a rapid stream than later when the volume of water decreases and, owing to a tortuous course and irregular bed, a sluggish stream results in the formation of stagnant pools.

In addition there are several swamps in and in connection with the course of these rivers. These swamps are equally objectionable.

(d) *Irrigation Works.*

In the valleys of the Nairobi and Mathari rivers, within the Nairobi Township boundaries, there exist several areas devoted to the cultivation of vegetables. The shambas are supplied by main irrigation canals, and from them a maze of small water channels is developed. From these, in the process of irrigating the land, there arise numerous small swamps which are allowed to remain for several days before the course of the channel supplying the water is deviated. These also produce ideal breeding grounds, in the case of the "Nairobi Swamp," within the centre of the town. In the Mathari valley, in connection with the irrigation canals, there exists a dam which has converted the area immediately above it into a large swamp.

## PREVENTIVE MEASURES.

It must be emphasized from the beginning that Nairobi can never be freed from the menace of malaria until there are provided adequate means of removal and disposal of surface and waste waters. This can be attained only by a complete and efficient sewerage system. The disposal of waste water from domestic and other premises is one of the most pressing problems of the town, not only within but also outside the Commercial area.

The difficulty attached to disposal has been mentioned above in connection with the dangers inseparable from the methods employed at present. The position with regard to surface water is the same. Efficient drainage cannot be obtained from the present roadside drain system. At the same time, there is no doubt that they could be very considerably improved. Much could be accomplished by cleansing and clearing throughout and regrading where necessary and possible. Still more benefit could be obtained if, when cleared, etc., these drains were maintained by a permanent maintenance gang. That this would entail a perpetual charge upon the public is a fact, but it is probable that such would be less expensive than an epidemic of malaria.

While it is admitted that many of these drains cannot be made to function by clearing, regrading or other means, yet such measures would facilitate the problem of dealing with the contained water.

With regard to pits and excavations, it is essential that disused quarries and borrow pits be filled or efficiently drained at the earliest possible moment. Such as are in use should be dealt with as and when possible, and no new activities of this nature should be permitted within the town.

To deal effectively with streams and rivers involves engineering works of some magnitude. They require treatment by canalization or other means, to ensure that the flow is free and that pooling is prevented. Until the course of these streams is straightened and the beds graded, to clear them of reeds and other vegetation is merely to increase the facilities for mosquito breeding.

Irrigated land presents, possibly, the most difficult problem of all. While the main canals can be dealt with in the same manner as that applicable to rivers and streams, it is the subsidiary channels and the swamps arising from them which most require to be dealt with. These are produced as required by the persons engaged in cultivation, and it is almost impossible to exert upon them the degree of control which would be necessary to eliminate these places as breeding grounds.

It is a matter for consideration and decision, having regard to the danger associated with and inseparable from such irrigated land, as to whether or not this activity should be allowed to continue in the midst of a town, and thus maintain a standing menace to the population thereof.

It cannot be too strongly urged that while the works mentioned above are of primary importance in the prevention of malaria, considerable responsibility attaches to the private individual. Every householder should exercise personal supervision to ensure that waste water from standpipes, kitchens, etc., does not collect and provide suitable breeding grounds. Unless co-operation is forthcoming from the population in general, schemes undertaken by Government or Municipal bodies cannot meet with the full measure of success.

It should also be emphasized that the execution of effective measures to combat malaria will necessarily involve the expenditure of considerable sums of money. Unless such can be found, the public of Nairobi must be prepared to accept a continuance of present conditions.

In the attached Catalogue, there are set out the works necessary in connection with anti-malarial measures in Nairobi and its environs.

The areas requiring to be dealt with involve Government, Nairobi Corporation, Kenya and Uganda Railway, and private individuals, either separately or jointly.

(Signed) RONALD HUNTER,  
*Medical Officer of Health.*

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(COPY).

CATALOGUE OF DRAINING AND FILLING WORKS REQUIRED IN AND AROUND NAIROBI IN CONNECTION WITH MALARIA PREVENTION.

1. Clearing and grading of all roadside drains throughout the Township and Suburban areas.

2. Filling and draining of quarries and pits in following situations :—

(a) Pits on the east side of the Kyambu roads beyond its junction with Fort Hall road.

(b) Pit at the junction of Naivasha Avenue and Tchui Road, Muthaiga.

(c) Pits in the Municipal Reserve on the east side of the Limoru Road near entrance to the City Park.

(d) A series of pits and holes between Railway and Salisbury Road from Ainsworth Bridge to the junction of Salisbury Road and Sclaters Road.

(e) Pits on the South-west side of Sclaters Road immediately beyond the Railway Crossing.

(f) A series of holes on the site of the old Mombasa Village.

(g) Pits adjacent to slaughterhouse.

(h) Quarries at the west extremity of the Native Location.

(i) Pits along the borders of the stream running underneath Ngong Road between Golf Course and K.A.R. Reserve.

(j) Pits along Ngong Road to Dagoretti Corner.

Clearing, grading and straightening of beds of following rivers and streams, together with filling or draining of marshy ground in connection therewith :—

(a) Mathari River in the area between Parklands and Muthaiga and the swamp area in and around Plot 193.

(b) Stream running through Upper Parklands, Parklands Valley and City Park joining Mathari River in the neighbourhood of Kyambu Road Bridge.

(c) Drain behind Parklands Police Station and Church.

(d) Nairobi and Ngara Rivers from Western Municipal boundary to eastern end of Native Location ; the irrigation canals in connection with the river. The swamp extending from Ainsworth Bridge to Racecourse Road and the marshy ground on the east side of Government Road and Railway between Ainsworth Bridge and Kirk Road junction, also the marsh in Chiromo.

(e) The drain running from Tenth Avenue opposite the Scotch Church, towards Kirk Road and the Railway.

(f) The stream rising behind Government House and running down the valley to the Natural History Museum, collecting drains from Crawford and Valley Roads, thence between All Saints Church and the Treasury to Whitehouse Road across the Railway Golf Course to Railway Plantation and Ngong River.

(g) Stream running through Upper Hill Estate under Ngong Road and between Golf Course and K.A.R. Reserve.

(h) Network of surface water drains in area south of Chamberlain Road.

Of the above, the most urgent works are those in connection with roadside drains and with the various pits and excavations.

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## APPENDIX 5.

## STANDING ORDERS.

## MEETINGS OF THE COUNCIL.

1. All meetings of the Council shall be open to the Press and the public.

2. Twenty-four hours at least before any meeting of the Council, notice of such meeting, with an agenda specifying the business proposed to be transacted thereat, and signed by the Town Clerk, shall be left or delivered at the usual address of every member of the Council.

3. Want of service of the summons on any member of the Council shall not affect the validity of a meeting.

4. No business shall be transacted at a meeting other than that specified in the agenda relating thereto, except any matters which the Chairman considers urgent, or which the Council resolves by a majority of the whole Council or of three-fourths of the members present to deal with as urgent.

5. The Council may adjourn a meeting to any day or hour, but no business shall be transacted at an adjourned meeting except such as was set out in the agenda for the meeting of which it is an adjournment, other than matters which are brought forward in accordance with section 4 hereof.

6. When a meeting is adjourned, notice of the adjourned meeting shall be sent to each member of the Council, specifying the business to be transacted.

7. The quorum of the Council shall be one-half of the whole number of the Council.

8. If at the expiration of twenty minutes after the hour at which any meeting of the Council is appointed to be held a quorum shall not have assembled, no meeting shall take place, unless it is decided, with the unanimous consent of the members present, to allow further time not exceeding an additional ten minutes in order to enable a quorum to assemble.

9. If during any sitting of the Council the attention of the Chairman of the Council be called to the number of members present, he shall count them, and if it be found that there is not a quorum present, and if after an interval of five minutes a quorum is still not present, the Council shall stand adjourned.

10. Every member of the Council attending a meeting of the Council shall sign his name in the attendance book kept for that purpose.

## CHAIRMAN OF COUNCIL MEETINGS.

11. At every meeting of the Council the Mayor or, if the Mayor is absent, the Deputy-Mayor, shall be Chairman. If the Mayor and the Deputy-Mayor are both absent, then the Councillors present shall elect a Chairman from among themselves to preside at such meeting.

## BUSINESS AT COUNCIL MEETINGS.

12. The order of the business at every ordinary meeting of the Council is as follows :—

- Minutes of previous meeting.
- Opening of Tenders.
- Report of the Finance Committee.
- Reports deferred from previous meetings.
- Report of other Standing Committees.
- Reports of Special Committees.
- Petitions and deputations.
- Notices of motion deferred from previous meeting.
- New notices of motion.

The Chairman or Council may, in their discretion, bring forward any business which is on the Agenda Paper at any stage.

## MINUTES.

13. Minutes of the proceedings of every meeting of the Council shall be drawn up and printed or typewritten, and shall, if confirmed, be signed at the next ensuing ordinary meeting by the Chairman.

14. The minutes of the last meeting shall be taken as read, with a view to confirmation, provided that a copy of the minutes shall have been sent to each member of the Council twenty-four hours previously.

15. No motion or discussion shall be allowed upon the minutes, except as to their accuracy.

## REPORTS OF COMMITTEES.

16. Except as to any report which a Committee may bring up as a matter of urgency (of which urgency the Chairman of the Council shall be the judge), the reports and recommendations of Committees shall be printed or type-written, and sent to each member of the Council, so that the same may, in the ordinary course of post, be delivered at the address of each member at least twenty-four hours before the meeting of the Council at which they are to be considered.

17. The member bringing up a report shall move : " That the report be received."

Upon the motion that the report be received, if among the other paragraphs there be one not containing a recommendation, it shall be competent for a member to move : " That the report be received with the exception of paragraph No. ."

The Council having agreed to receive the report as a whole, the Town Clerk shall thereupon put the recommendations therein contained seriatim (unless for good cause the Chairman of the Council shall see fit to vary their order). If the Council agrees with a recommendation, the same shall forthwith become a resolution of the Council.

18. The Chairman of a Committee or other member bringing up a report shall be held to move each recommendation contained in the report, unless he shall have previously stated his disagreement with it.

19. The Chairman of a Committee or other member bringing up a report may withdraw or amend any paragraph with the consent of the Council.

20. It shall not be in order to move an abstract resolution on any paragraph of a report of any Standing Committee.

21. Any proposal which would have the effect of increasing the expenditure of the Council must take the form of a reference to a Committee for consideration.

#### PETITIONS AND DEPUTATIONS.

22. Petitions may be presented by the members of the Council, but the presentation of a petition shall not be accompanied by any speech or comment.

23. Deputations wishing to be received by the Council shall be requested in the first instance to send in a memorial in writing, and the Town Clerk shall bring the memorial before the Committee concerned, which shall be authorised, if it see fit, to receive the deputation, and to report to the Council. If the Committee is of opinion that the memorial is one which should be brought before the Council, the Committee shall so report; and, if the Council shall so order, the deputation shall be invited to attend.

24. A deputation shall not exceed ten in number, and only one member thereof shall be at liberty to address the Council, except in reply to questions from members of the Council, and the matter shall not be further considered by the Council until the deputation shall have withdrawn.

#### NOTICES OF MOTION.

25. Every notice of motion shall be in writing, signed by the member giving the notice. It shall be given to the Town Clerk, and shall be entered in a book to be kept in his office, which book shall be open to the inspection of every member. A notice of motion, which shall not have been received before one o'clock in the afternoon preceding the usual day for issuing the notice of any meeting of the Council, shall not be specified in the Agenda for such meeting, and every notice of motion shall be relevant to some question affecting the administration or condition of the Municipality.

26. All notices of motion shall be dated and numbered as received, and shall be entered by the Town Clerk upon the Agenda Paper in the order in which they are received, save and except that notice of an amendment shall be entered immediately after such notice of motion, irrespective of the time at which notice of the motion shall have been received.

27. No member shall have more than two notices of motion on the agenda paper at the same time.

28. In dealing with notices of motion the Chairman of the Council shall first of all read out the number of each, and the name of the mover, so as to ascertain which motions are unopposed, and these last shall be passed forthwith. The Chairman of the Council shall then call on the movers of the opposed motions in their order on the paper.

29. When a written notice of opposition to a motion on the agenda paper has been lodged with the Town Clerk at the table before or within one hour after the commencement of the meeting, such motion shall be considered as opposed business not to be passed without discussion.

30. (a) At any meeting of the Council questions relevant to the general work or procedure of the Council may be put, subject to the following conditions :—

- (1) Notice of questions must be given in writing to the Town Clerk not later than noon on the day preceding such Council meeting, and he shall forthwith furnish copies of such questions to the Chairman of the Council and to the Chairmen of the Committees concerned.
- (2) Questions germane to the work of any Committee shall be put to the Chairman of such Committee, or to the member acting on his behalf, immediately after the report of such Committee has been taken.
- (3) Without notice as aforesaid, no question shall be put except questions of urgent importance, of which the Chairman of the Council shall be the judge. Every such question shall be reduced to writing and signed before being submitted to the Chairman for his decision.
- (4) If, after a reply to a question, a member considers that his question requires further elucidation, he may ask for a further reply.

(b) A member putting a question under this Standing Order and the member giving a reply to such question shall be furnished with a copy of such reply.

#### CONDUCT OF DEBATE.

31. Members of the Council shall stand when speaking, and shall address the chair.

32. A member who speaks shall direct his speech strictly to the motion under discussion, or to an explanation or a question of order.

33. Whenever the Chairman of the Council rises during a debate, any member then speaking, or offering to speak, is to sit down, and the Council is to be silent, so that the Chairman of the Council may be heard without interruption.

34. No speech shall exceed ten minutes in length without the consent of the Council.

35. The Chairman of the Council shall call the attention of the Council to continued irrelevance, tedious repetition, unbecoming language, or any breach of order on the part of a member ; and shall direct such member, if speaking, to discontinue his speech, or in the event of persistent disregard of the authority of the chair, to retire for the remainder of the sitting.

36. The Council may suspend and exclude any member or members who may disregard the authority of the chair, or who may wilfully obstruct the business of the Council, provided that no such suspension and exclusion shall be for a period of more than six weeks.

37. No member shall address the Council more than once on any motion or amendment ; the mover of the original motion may, however, reply but he shall strictly confine himself to answering previous speakers, and shall not introduce any new matter into the debate. The right of reply shall not extend to the mover of an amendment, which, having been carried, has become the substantive motion.

38. Any member, whether he has spoken on the matter under discussion or not, may rise to a point of order, or in explanation, but such explanation shall be confined to some material part of his former speech which may have been misunderstood. A member so rising shall be entitled to be heard forthwith.

39. A motion or amendment may be withdrawn by the mover, with the consent of the Council, which shall be signified without debate, and it shall not be competent for any member to speak upon it after the mover has asked permission for its withdrawal, unless such permission shall have been refused.

40. The ruling of the Chairman of the Council on a point of order or on the admissibility of a personal explanation, shall be final, and shall not be open to discussion.

41. When a motion is under debate at any meeting of the Council, no further motion shall be received except the following :—

To amend the motion.

That the consideration of the question be postponed.

That the Council do now adjourn.

That the debate be adjourned.

That the question be now put.

That the Council do proceed to the next business.

*To Amend the Motion.*

42. Every amendment shall be relevant to the motion on which it is moved.

43. Every amendment shall be reduced to writing, signed by the mover, and handed to the Chairman of the Council or to the Town Clerk.

44. Every amendment shall be read before being moved.

45. No amendment shall be discussed or put to the Council until it shall have been seconded. The mover of an amendment shall have the right to nominate his seconder.

46. A member shall not address the Council more than once on an amendment. The right of reply shall not extend to the mover of an amendment, which, having been carried, has become a substantive motion. A member who has seconded an amendment in a formal manner shall be permitted afterwards to speak upon it.

47. Whenever an amendment upon an original motion has been moved and seconded, no second or subsequent amendment shall be moved until the first amendment shall have been disposed of. If an amendment be carried, the motion as amended shall take the place of the original motion, and shall become the question upon which any further amendment may be moved.

48. No member shall be at liberty to move more than one amendment upon any motion.

49. An amendment may be withdrawn by the mover, with the consent of the Council, which shall be signified without debate, and it shall not be competent for any member to speak upon it after the mover has asked permission for its withdrawal, unless such permission shall have been refused.

50. Any motion affecting the drafting or amendment of Bye-laws or Legislation (except in the case of verbal amendments accepted by the Chairman of the Committee concerned) shall, before Council finally vote thereon, be referred to the Committee within whose reference the matter lies, and such Committee shall report to the Council the general effect of such motion, if passed, upon existing Bye-laws or Legislation. The motion shall then be considered by the Council together with any recommendations the Committee may see fit to make.

*That the Consideration of the Question be Postponed.*

51. Any member of the Council may, at the conclusion of any speech, move that the consideration of the question be postponed to any stated period, or *sine die*. Such motion must be seconded, but it need not be reduced to writing. The mover may speak for not more than five minutes, but the seconder shall not be permitted to speak, beyond formally seconding it. Upon such a motion being made, the mover of the question under debate may (without prejudice to his ultimate right

of reply if the motion that the question be postponed be not carried) be heard in reply for five minutes, after which the question shall be put without further debate.

52. If the postponement to a stated period be carried, the motion shall be placed first on the list of motions for the day to which it has been postponed.

53. The motion may be withdrawn by the mover, with the consent of the Council signified without debate.

*That the Council do now Adjourn.*

54. Any member of the Council may, at the conclusion of any speech, move that the Council do now adjourn. Such a motion must be seconded, but it need not be reduced to writing. The mover may speak for not more than five minutes, but the seconder shall not be permitted to speak beyond formally seconding it. Upon such a motion being made, the mover of the question under debate may (without prejudice to his ultimate right of reply if the motion to adjourn be not carried) be heard in reply for five minutes, after which the question shall be put without further debate. If the motion be carried, the question under debate shall become a dropped motion.

55. A second motion that the Council do now adjourn shall not be made within half an hour, unless in the opinion of the Chairman of the Council the circumstances of the question are materially altered.

56. No member shall move or second more than one motion for the adjournment of the Council at one sitting.

57. On a motion for the adjournment of the Council, it shall be competent for the Chairman of the Council, before putting that motion, to take the pleasure of the Council as to whether it will proceed to the transaction of unopposed business before adjourning. The motion to adjourn may be withdrawn by the mover, with the consent of the Council signified without debate.

*That the Debate be Adjourned.*

58. Any member of the Council may, at the conclusion of any speech, move that the debate be adjourned. Such a motion must be seconded, but it need not be reduced to writing. The mover may speak for not more than five minutes, but the seconder shall not be permitted to speak beyond formally seconding it. Upon such a motion being made, the mover of the question under debate may (without prejudice to his ultimate right of reply if the motion that the debate be adjourned be not carried) be heard in reply for five minutes, after which the question shall be put without any further debate.

59. If the motion that the debate be adjourned be carried the discussion shall be resumed at the next meeting of the Council, and the Council shall proceed to the next business on the paper.

60. On resuming an adjourned debate the member who moved its adjournment shall be entitled to speak first.

61. A second motion that the debate be adjourned shall be not made within half an hour.

62. No member shall move or second more than one motion for adjournment of the same debate.

63. The motion may be withdrawn by the mover with the consent of the Council, signified without debate.

*That the Question be now Put.*

64. It shall be competent for any member, at the close of any speech to move, without debate, that the question be now put, and the motion, if seconded, shall be put forthwith. Should the motion be carried, the motion or amendment under debate shall be at once put.

65. A second motion that the question be now put shall not be made within half an hour.

*That the Council do Proceed to the Next Business.*

66. It shall be competent for any member at the close of any speech, to move, without debate, that the Council do proceed to the next business, and, if the motion be seconded, it shall be put forthwith.

67. When a motion is carried that the Council do proceed to the next business, the question under discussion shall be considered as dropped.

68. A second motion that the Council do proceed to the next business shall not be made within half an hour.

69. The motion may be withdrawn by the mover, with the consent of the Council signified without debate.

VOTING.

70. Every motion, duly proposed and seconded, shall be submitted to the Council by the Chairman of the Council, who shall call upon the members in favour of the motion to say "Aye" and those against to say "No"; and he shall thereupon declare what he collects to be the sense of the Council: Provided it shall always be in the power of any member to challenge the declaration of the Chairman of the Council, and to demand a division, whereupon the Chairman of the Council shall take the vote of each member separately, which shall be recorded in the minutes, and the motion shall be declared carried or lost according to the numbers voting for or against it.

71. Previously to the Chairman taking the division, the question before the Council shall be put again by the Chairman of the Council, and every member then present, save any member prohibited from exercising a vote under any provisions of the Municipal Corporations Ordinance (with the exception of the member occupying the chair,

with whom it shall be optional whether he votes or not) shall record his vote either for or against the question.

72. No member shall vote in a division unless he shall have been present when the question was put the second time.

73. When the Town Clerk shall have recorded all the votes cast, the Chairman of the Council shall announce the result of the division.

74. In the case of equality of votes, the Chairman of the Council shall have a second or casting vote, except where otherwise provided in the Municipal Corporations Ordinance.

75. Applications for appointment to an office the value of which exceeds three hundred pounds per year shall be called by advertisement, except in cases where the Committee concerned may recommend the promotion of a member of the permanent staff. When applications are called by advertisement the Committee making the preliminary selection is (unless otherwise ordered) to submit to the Council the names of not more than three candidates, indicating at the same time, if it think fit, the candidate whom it recommends the Council to appoint. If the Council, instead of adopting the recommendation of the Committee, resolves to vote upon the three candidates submitted, the Chairman of the Council is to put to the Council the three names in alphabetical order, each member of the Council being at liberty to vote for one or more as he thinks fit, and the name of the candidate who has received the fewest votes is to be struck out. The Chairman of the Council is then to put the names of the other two candidates, and having declared which of them has received the most votes, he is finally to put the question whether such candidate shall be appointed to the office. If a majority of the members present vote in his favour, he is to be declared to be appointed. If a majority of those present vote against him, the matter of the appointment is to be referred back to the Committee concerned.

COMMITTEES.—APPOINTMENTS, CONSTITUTION, POWERS AND DUTIES.

76. The Council may from time to time appoint Committees, either General or Special, and consisting of such number of persons as the Council may think fit, for any purposes which, in the opinion of the Council, " would be better regulated and managed by means of such Committees."

77. The Council shall, as soon as possible after the annual election of Councillors, proceed to the appointment of the Standing Committees and to the settlement of the references to be made to them. The Council may appoint new Committees at any time.

78. As soon as possible after each annual election, the Town Clerk shall obtain from each member a statement showing all the Committees in the order in which he would prefer to serve on them.

If the applications for any Committee exceed the maximum number of vacancies thereon, the names of members applying shall be submitted to ballot by the Council, and the vacancies shall be filled by the members receiving the most votes.

If the applications for any Committee do not exceed the maximum number of vacancies thereon, the name of each member applying shall be separately submitted to ballot, and such member shall only be elected if he receives a majority of votes in his favour from the members present.

If, after all the members of the Council have been provided with a place on some Committee, the number of members appointed to any Committee be less than the minimum ordered for that Committee, the Council shall have power to appoint by ballot enough members to make up the required minimum.

79. Every Standing Committee shall hold office until the first meeting of its successor.

80. No member of the Council shall have the right to nominate more than one member for any Committee.

81. The powers and duties of Committees shall be specially delegated to them by the Council. The Council may at any time withdraw, extend, or modify any reference to a Committee, provided, nevertheless, that any proposition to withdraw or modify a reference shall first be referred to the Committee concerned for consideration and report to the Council.

82. The Council may transfer any reference from one Committee to another after such report as aforesaid.

83. The Council may from time to time refer any new matter to a Committee.

84. The mover of any new reference to a Committee shall be summoned to attend the first meeting of the Committee where the matter of such reference is considered, and shall be entitled to be heard thereupon.

85. The Mayor or, in his absence, the Deputy Mayor shall be *ex-officio* member of every Committee and Sub-Committee.

86. Any member of a Committee may resign his seat on the Committee by a notice in writing, signed by him and sent to the Chairman of the Committee or the Town Clerk.

87. The existence of a vacancy or vacancies upon a Committee does not affect the validity of any of its acts or proceedings.

88. Every vacancy in a Committee shall be notified by the Committee to the Council at its first meeting after such vacancy has arisen. The vacancy may be filled up by any other member of the Council appointed by the meeting.

89. When two members on different Committees agree to exchange from one Committee to another, they shall notify the same to the Town Clerk and the Chairmen of the Committees affected, and the matter shall be brought forward by the Committees in their reports at the next meeting of the Council. If the Council agree to the exchange the same shall take effect forthwith.

90. When any member of the Council is granted leave of absence from the meetings of the Council and Committees, the Council may appoint another member to act during the period for which leave is granted, in the place of such absent member on any Committee of the Council to which he had been appointed.

#### COMMITTEE OF THE WHOLE COUNCIL.

91. The Council may resolve itself into a Committee of the whole Council, but no business discussed thereat may be reported to or voted on by the Council the same day.

92. Every resolution of the Committee of the whole Council shall be in effect an instruction to the Committee within whose reference the matter referred to lies. Such Committee shall, at its next meeting, report thereon to the Council.

93. The quorum of the Committee of the whole Council shall not be less than one-half of the members of the whole Council.

#### COMMITTEE MEETINGS.

94. Each Committee shall from time to time fix its own day and hour of meeting.

95. No business shall be entered upon or transacted in any Committee during the sitting of the Council except by permission of the Council.

96. Every Committee shall be summoned by the Town Clerk, who shall send to each member an agenda paper, so that the same may in ordinary course be delivered at the address of each member at least twenty-four hours before the hour of meeting. Except in matters of urgency (of which the Chairman of the Committee shall be judge) no business shall be transacted at any meeting of the Committee except such as is set out in the agenda paper. Want of service of the summons on any member of the Committee shall not affect the validity of the proceedings.

97. Every Standing Committee shall meet at least once in every calendar month. When any Committee has failed to meet for a month the Town Clerk shall report the circumstance to the Council.

98. Each Committee shall keep a separate attendance book, in which every member attending shall sign his name.

99. Members of the Council have the right of attending any Committee ; the Chairman of the Committee may also permit a member so attending to speak.

100. Every member of the Council who attends a Committee of which he is not a member shall enter his name in the attendance book of the Committee, and shall write after his name the words "Standing Order."

101. The Council shall regulate the quorum of any Committee, but such quorum shall not be less than one-third of the number of the members of the Committee, inclusive of *ex-officio* members.

#### CHAIRMAN AND VICE-CHAIRMAN OF COMMITTEES.

102. As soon as may be after the Council shall have appointed the Standing Committees and settled the references to them, the Chairman of the Council shall call a meeting of each Committee for the purpose of selecting a Chairman. The selection of Chairman shall be the first business of each Committee, and until his selection the Chairman of the Council shall preside at the Committee. Each Committee may, if it shall so decide, elect a Vice-Chairman.

103. The Chairman of a Committee, or in his absence the Vice-Chairman (if any), shall preside at every meeting of the Committee at which he is present. The Chairman, or the Vice-Chairman, as the case may be, shall be entitled to vote in the first instance and, in case of an equality of votes, may give a second or casting vote. Where he has not voted in the first instance he may, in case of an equality of votes, give a casting vote. He shall sign the minutes when the same have been passed by the Committee. It shall be his duty, if present, to bring up the report of the Committee to the Council, and to move the same, subject, however, to Standing Order No. 18.

104. In the absence of the Chairman of a Committee, and the Vice-Chairman (if any), the members shall appoint from among their own number an Acting Chairman, who shall, when presiding, have the same powers and rights of voting as those possessed by the Chairman. He shall, in the absence of the Chairman, bring up the report of the Committee at which he was acting Chairman, to the Council, and move the same, subject, however, to Standing Order No. 18.

105. No member of the Council shall be Chairman of more than one Standing Committee.

#### COMMITTEE PROCEDURE.

106. The Council may make regulations as to procedure of all or any of the Committees.

#### VOTING.

107. Every matter brought before a Committee shall be decided by a majority of those present and voting. The voting shall be by show of hands. Any two members of the Committee then present and voting may require the names of the persons voting, and the votes given to be entered in the minutes.

## MINUTES.

108. Every Committee shall make minutes of its proceedings and cause the same to be duly entered in a book kept for the purpose.

109. At every meeting of a Committee the minutes of the last meeting shall be read as the first business after the Chairman has taken his seat, and, if accurate, shall be signed by him. The minutes of a previous meeting may be taken as read, provided that they have been circulated or have been open to inspection by any member of the Committee one hour previous to the subsequent meeting and the Chairman of the Committee shall have previously examined them and shall vouch for their correctness ; subject, however, to any member of the Committee then present requiring any or all of them to be read, in which case such minute or minutes shall be read accordingly.

110. No motion or discussion shall be allowed upon the minutes, except as to their accuracy, and an objection upon that ground must be made by motion.

111. The minute books of every Committee shall be open for the inspection of any member of the Council during office hours.

## REPORTS.

112. The Council may, except where any law or bye-law otherwise requires, delegate to any Committee full authority to do any act on its behalf, and any acts of a Committee done in pursuance of such authority shall be valid and binding upon the Council and need not be approved by the Council.

113. All Committees must report their proceedings to the Council and every act of a Committee which is not done in pursuance of authority expressly delegated by the Council must receive the approval of the Council before being valid.

114. Every Committee shall report at least once a month.

115. The reports of Committees shall, where necessary, contain the recommendations of the Committee on the matter reported on. The report shall be divided into paragraphs, which shall be numbered consecutively. Every report presented by a Committee to the Council shall be signed by the Chairman of the meeting at which the report was agreed to.

116. When both the Chairman and Acting Chairman of a Committee are absent from the meeting of the Council at which a report of the Committee is to be presented, the report shall be brought up by any other member of the Committee present who shall have been deputed by the Committee, or shall be called upon by the Chairman of the Council to bring up the report.

117. After any recommendation of a Committee has been agreed to by the Council, the same shall forthwith be carried out by the Committee to which it is referred.

## MOTIONS TO RESCIND, AND NEGATIVED MOTIONS.

118. (a) No motion to rescind any resolution which has been passed within the preceding three months, nor any motion to the same effect as any motion which has been negatived within the preceding three months, shall be in order unless notice thereof shall have been given and specified in the Agenda, and the notice shall bear, in addition to the name of the member who proposes the motion, the names of three other members, and when any such motion has been disposed of by the Council it shall not be competent for any member to propose a similar motion within a further period of three months.

(b) This order shall not apply to motions which are moved by the Chairman or other member of a Committee in pursuance of a report of the Committee.

## SAMPLES AND CANVASSING FOR ORDERS.

119. In all departments of the Council's service, and at all places under its control, personal canvassing for orders or leaving samples of goods by travellers and others is strictly prohibited. Any violation of this rule shall be reported by the Council officials to the Town Clerk. All communications respecting the supply of goods to the Council must, until further order, be addressed in writing to the Town Clerk.

## SUSPENSION OF STANDING ORDERS.

120. Any Standing Order affecting procedure and conduct of meetings may be suspended with the consent of a majority of the members of the whole Council: Provided that every resolution to suspend a Standing Order shall state the purpose for which the suspension is required and no such resolution shall be effective after the business to which it refers has been dealt with.

The suspension of any Standing Order shall not be deemed to affect in any manner the obligation to comply with any provisions of the Municipal Corporations Ordinance.

## INTERPRETATION OF STANDING ORDERS.

121. The rulings of the Chairman of the Council as to the interpretation of Standing Orders shall be embodied in the minutes of the Council, and a register shall be kept by the Town Clerk of such rulings. The Chairman of the Council shall sign each separate entry of a ruling given by himself.

122. Notice of motion to review the ruling of the Chairman of the Council or the Chairman of any Committee must take the form of an instruction to the General Purposes Committee to consider and report to the Council on such ruling and must be placed on the agenda in accordance with Standing Order No. 25.

## APPOINTMENTS.

123. Personal canvassing for appointments in the gift of the Council is strictly prohibited. Proof thereof shall disqualify a candidate for appointment.

124. The above Standing Order shall be quoted in advertisements calling for applications for appointments.

125. Members of the staff of the Council shall not, except with the written permission of the Council, engage in any work other than that of the Council, or be directly or indirectly concerned in the conduct of any private business, but shall, except in the case where such permission has been obtained, be required to devote the whole of their time to the Council's service, and any fees received by them when appearing as witnesses, or in any other capacity on the Council's behalf, and all monies earned during the term of their engagement with the Council in connection with any outside work which has not been the subject of such permission as aforesaid, shall be paid to the Council.

126. No servant of the Municipality shall receive any present, pecuniary or valuable, from or on account of any person or persons who either have, or seek to have, any business relations with the Council.

This rule applies not only to the servants of the Council themselves, but to their families, and such servants of the Council are responsible for its observance by their families. It is not intended to apply to cases of remuneration for special services rendered and paid for with the consent of the Council, or to the ordinary gifts of personal friends.

## TOWN CLERK.

127. The Town Clerk shall be the chief administrative official of the Council. He shall be responsible for the proper conduct of the Council's business, and see that it is carried on with order and regularity, and in accordance with what is prescribed by Law, by the Standing Orders of the Council and the orders of reference to the various Committees. He may also, if necessary, be appointed to act as Treasurer of the Council.

128. The Town Clerk shall exercise general supervision over the whole of the permanent staff, except heads of departments, and shall give particular attention to the punctuality of attendance of all members of the indoor staff at the Central Offices. He shall advise the Council on questions relating to the allotment of rooms among the different departments of the staff, and on other questions of internal arrangements of the office.

129. The Town Clerk shall advise the Council upon questions relating to the appointment, pay, duties, promotion, superannuation, and dismissal of the members of the staff.

130. As Town Clerk he is Clerk of the Council and of all Committees of the Council. It shall not, however, be obligatory upon him to attend Committee meetings, unless called upon by a Committee to advise them on any subject but, where he does not himself attend a Committee meeting, he shall depute a Committee clerk to attend such meeting. He shall give them all necessary information and assistance concerning the conduct and course of business.

131. The Town Clerk shall have charge of and be responsible for all the records and documents of the Council, and shall conduct the correspondence of the Council, except such portions of it as the Council shall specially entrust to the chief officer of any other department.

132. All communications addressed to the Council shall be laid by the Town Clerk before the Committee which has charge of the business to which the communication relates.

133. The Town Clerk shall, on application being made to him by any newspaper, supply to such newspaper or its representative the reports of Committees. The Town Clerk being the authorised channel through which the newspapers receive these documents, members of the Council are expected to refrain from sending to the Press documents supplied to them with a view to their consideration by the Council.

134. The Council may suspend and exclude, for such period as it may fix, any member who is guilty of the publication or disclosure of any document or record of the Council, or the proceedings of any Committee of the Council, or of a Committee of the whole Council relating to any expropriation or purchase of land or other property by the Council, or any legal or arbitration proceedings in which the Council is concerned, or any matter the disclosure or publication of which would be prejudicial to the interests of the Council: Provided that no such suspension or exclusion shall be for a period of more than three months.

135. The Town Clerk is to prepare and circulate annually a return showing the attendance of members of the Council at meetings of the Council and Committees (including Sub-Committees whose proceedings are recorded).

136. Standing Order No. 125 shall apply to all heads of departments.

#### REPORTS OF OFFICIALS.

137. All heads of departments and any other officers who may be instructed thereto by any Committee, shall submit monthly reports relating to the working of their departments or the duties they perform, and shall make recommendations where necessary for the better carrying out of any works or services or in connection with any matter for which they are responsible.

Each report shall be submitted to the Committee having charge of the department concerned, and copies thereof shall be sent to members of such Committee with the agenda paper referred to in Standing Order No. 96.

## FINANCIAL REGULATIONS.

## FINANCE COMMITTEE.

1. The Council shall appoint a Finance Committee.
2. The Council shall not vote expenditure until it has been considered and reported on by the Finance Committee.
3. The Finance Committee shall regulate the finance of the Municipality and shall, at each ordinary meeting of the Council, make such report as shall enable the Council to carry out the financial provisions imposed by law on the Council.
4. The Finance Committee shall also undertake the following duties :—
  - (a) Prepare and submit to the Council annual estimates of revenue and expenditure and revise such estimates (if required) at the expiration of six months, and submit to the Council for its approval the amount of assessment rates (if any) to be levied.
  - (b) Superintend the keeping of the accounts of the Council and have general charge of the Treasurer's Department.
  - (c) Consider and report to the Council upon all matters relating to the consolidation of Loans, Sinking Funds, the payment of interest on debt, the raising of money on loan, or by issue of consolidated stock or otherwise, and the temporary investment of surplus balances.
  - (d) Prepare and present to the Council periodically summarised statements of the revenue and expenditure, distinguishing between revenue and capital, classifying the same under different heads.
  - (e) Make from time to time regulations for the guidance of the various Committees empowered to incur liability or to expend money, as to the report by them to the Finance Committee of such liability or expenditure.
  - (f) Obtain guarantee policies for officers entrusted with moneys on behalf of the Council, or have existing policies altered as may from time to time be necessary.
  - (g) Manage and administer the Superannuation, Provident or any other fund.
  - (h) The financial control of the works and services carried out by the Council, the supervision of the purchase of materials, plant, livestock, etc., required by the Council, the disposal of surplus material, old plant, etc., and the making of the necessary regulations with regard thereto, such regulations being reported to the Council.
5. The Finance Committee shall cause periodical returns to be submitted to them showing the progress of expenditure under the

various estimates, and shall present to the Council at the expiration of the financial year a statement of the estimates and of the expenditure thereunder, with such comments thereon as they may think advisable.

6. The statements of the Finance Committee are to be recorded in the minutes of the Council.

#### ESTIMATES.

7. Every Committee shall, on or before the 1st November in each year, prepare and send to the Treasurer an estimate, under various heads, of the total moneys required for the expenditure of the Committee upon matters within its reference for the following financial year on maintenance account, and also estimates of expenditure on capital account for the same period. Such estimates shall be in such form and under such heads as the Finance Committee may from time to time prescribe.

8. The Treasurer shall, in the month of November in each year, bring up to the Finance Committee the estimates forwarded to him from the various Committees, and thereupon the Finance Committee shall prepare and submit to the Council after publication of the advertisement required by section... of the Municipal Corporations Ordinance not less than fourteen days before the close of the financial year, a detailed estimate of the revenue and expenditure of the Council for the next financial year. The annual estimates shall be sent out to all members of the Council before the meeting at which they are to be considered by the Council.

9. If any Committee shall, on or before the 30th June in any year, find it necessary to revise its estimate for the financial year, it shall send to the Treasurer a revised estimate on or before that date.

10. If at the end of the first six months of a financial year it is necessary, either by reason of revised estimates being sent up by any of the Committees or otherwise, to increase or modify the general estimate for the second six months, the Finance Committee shall prepare and send up to the Council a revised estimate for such six months.

11. In the case of any work or object the expenditure on which may extend over more than one financial year, the estimate will show (a) the total estimated costs, debt or liability involved ; (b) the amount proposed to be expended within the financial year ; (c) the amount (if any) included in previous estimates.

12. Expenditure provided for in annual or supplementary estimates approved by the Council may be incurred by a Committee, subject to the provisions of Financial Regulation No. 13 ; proposed expenditure not so provided for shall be made the subject of a special estimate to be submitted by the Finance Committee to the Council and, upon such estimate being approved, the Committee shall, upon their recommendation to the Council, be authorised to incur such expenditure.

13. Notwithstanding any provision made under approved estimates, no work shall be commenced or purchases effected or other expenditure incurred (except normal recurring expenditure) until the Finance Committee has reported to the Council that the necessary funds are available to meet such expenditure, and the Council has approved of such expenditure being proceeded with.

14. Any anticipated excess of expenditure under an estimate shall be the subject of a supplementary estimate, and it shall be the duty of the official responsible for the supervision of expenditure to warn the Committee whom he serves whenever an excess is to be anticipated on sums appropriated under any estimate of expenditure under his supervision, and the Committee shall send a supplementary estimate to the Finance Committee, and shall obtain the Council's approval to the proposed increased expenditure at the earliest possible moment. Such supplementary estimate shall be submitted by the Finance Committee without delay to the Council, with any observations they may wish to make upon its financial bearings.

15. No saving on an amount estimated for a specific purpose may be applied to meet an excess on an amount for another purpose.

16. In any case in which the actual expenditure has exceeded the original estimate or supplementary estimate, the Committee responsible shall immediately report the fact to the Finance Committee, stating the reasons why the excess has been incurred, and shall, at the earliest possible date, bring the matter before the Council. It shall be the duty of the Finance Committee to show how far the excess was, in their opinion, necessary in the interests of the Council and unavoidable.

17. In the event of the cost of any work being reduced by reason of the omission of any portions of the work, the effect of such reduction on the original estimate shall also be reported to the Finance Committee at the earliest moment, and by the Finance Committee to the Council.

#### REVENUE.

18. All receipts shall be deposited daily to the credit of the Council's banking account without abatement.

19. Written receipts on printed and numbered forms bearing the name of the Municipality, of which duplicate copies shall be kept, shall be issued for all moneys received by or on behalf of the Council.

20. The Treasurer shall control the printing and issue and use of all receipt forms, licence forms or other documents for recording the receipt of or giving discharges for moneys paid to the Council, and he shall cause a special register to be kept showing all such forms or documents taken into stock, and the persons to whom they are issued.

#### TENDERS.

21. All work not carried out departmentally shall, where possible, be put up for public tender.

22. Tenders shall be received only in closed envelopes, and placed in a box appointed for the purpose.

23. The tenders shall be opened by two members of the Council, in conjunction with the Town Clerk, who shall sit in public for that purpose fifteen minutes before the time fixed for the sitting of the Council, and one of the members of the Council so present shall date and sign each tender received. The tenders received shall thereafter be reported to the Council at the same meeting :

Provided that, at the request of the Head of the Department concerned, any tenders, the time for receiving which closes on a day on which there is no meeting of the Council, may be opened by the Mayor or Deputy Mayor, or the Chairman of any Standing Committee, sitting in public, at a time and place of which two days' notice shall be given by public advertisement, in conjunction with the Town Clerk and the Head of the Department concerned, and tenders so opened shall be dated and signed by the Mayor, or Deputy Mayor, or the Chairman of any Standing Committee, and shall be reported to the Council at its next meeting.

24. If a Committee shall recommend the acceptance of a tender other than the lowest they shall state their reasons in a report thereon which shall be forwarded to the Finance Committee, who shall report thereon to the Council.

#### CONTRACTS AND AGREEMENTS.

25. Contracts and agreements, and records of any transaction involving payment of money, either to or by the Council, shall be sent to the Treasurer for registration without delay, also a memorandum of all estimates which, having been accepted, have virtually become contracts, and the orders for works based on such estimates ; such memorandum to be certified by the Chairman of the Committee having charge of the work.

#### ORDERS FOR WORKS AND GOODS.

26. The several Committees, when giving authority for works or goods, are to require the officer giving the order to state thereon the name of the Committee from whom the order proceeds, and to request the person or firm to whom the order is sent to state the name of the Committee on each account, and to render a separate account in respect of each Committee.

27. All orders for works and goods shall be given on official order forms, and copies of such orders shall be attached to all accounts before payment is made.

#### ACCOUNTS AND PAYMENTS.

28. No payment shall be made unless the expenditure has been provided for in approved estimates, or, in case it has not been so provided for, until it has been expressly ordered by the Finance Committee.

29. All bills and accounts payable by the Council shall be sent to the Treasurer before being dealt with by any other department.

30. All payments shall be made by cheque.

31. No cheque shall be drawn for any amount the account for which is not signed by the Chairman of the Committee directing the expenditure and the head of the department concerned.

32. All cheques for the payment of money shall be signed by the Treasurer and two members of the Finance Committee.

33. The Finance Committee is to require the Treasurer to report whenever an account is not presented for payment within thirty (30) days after it has been rendered by the person to whom the payment is due.

#### TREASURER.

34. The general financial correspondence of the Council is to be conducted by the Treasurer as the head of the Finance Department, under instructions from the Finance Committee, but letters of importance ordered to be written by the Council may be signed by the Chairman of the Council or the Town Clerk, as the Council may direct.

35. The Treasurer shall give all necessary assistance to Committees concerning the conduct and course of financial business.

36. It shall be the duty of the Treasurer to advise the Finance Committee on all questions relating to the financial affairs of the Council to control and administer, subject to the directions of the Finance Committee, all funds belonging to the Council, and in addition to any other duties which may be imposed upon him :—

- (a) To control and supervise all accounts and records kept by any department or officer of the Council in connection with the collection of revenue, the disbursement of funds, the allocation of expenditure and costing of services, the purchase and disposal of stores, and any other transactions of a financial nature ; and, subject to the requirements of the Council's auditor and any provisions of the Municipal Corporations Ordinance, prescribe the form and manner in which such accounts and records shall be kept.
- (b) At the close of each financial year or at any other time he may consider necessary, to call upon all departments or officers of the Council having charge of stores to submit certified lists of such stores, showing the cost or book value thereof, and statements of any depreciation or shortages or surpluses disclosed by stocktaking.
- (c) At the close of each financial year or at any other time he may consider necessary, to call upon all departments or officers of the Council having charge of any plant, livestock, or other

moveable assets of the Council, to submit certified lists and valuations thereof, provided that, if the Finance Committee shall so decide, such valuations shall be made by an independent valuer to be appointed by such Committee.

- (d) To arrange for the verification of the lists and statements referred to in (b) and (c) hereof either by himself or by a responsible officer of his department, and the furnishing of a statement signed by himself or such officer certifying that such lists have been compared with the stores and movable assets to which they refer and testifying as to the correctness thereof, provided that, if the Finance Committee shall so decide, any member or members of such Committee or other person deputed thereto by such Committee may at any time conduct an examination of such stores and movable assets.
- (e) Report to the Finance Committee without delay any waste or extravagance in the use of stores or otherwise, any excessive cost of any service or item of expenditure, and any breach of the provisions of the Municipal Corporations Ordinance or of any regulations relating to the revenue or expenditure or property of the Council which may come to his notice.

#### CAPITAL ACCOUNT.

37. The Council's capital account shall consist of :—

- (a) Loans raised by the Council for capital works or purposes.
- (b) Proceeds of sales of immovable property reserved by law or otherwise for the redemption of debt or for capital purposes.
- (c) Special assessment rates or contributions levied for carrying out capital works or purposes.
- (d) Endowment funds, grants, or other special receipts reserved by law or otherwise for capital purposes.
- (e) Contributions from the Council's revenue fund or from trading undertakings for capital purposes.

38. The Treasurer shall submit to the Finance Committee as often as may be required, but not less than once every three months, in respect of each separate loan or fund, progressive statements of receipts and payments, including particulars of any unspent balances and estimated amount of expenditure on account of authorised works and purposes still to be met from such loans or funds.

39. Such statements shall be submitted by the Finance Committee to the Council and the Committee shall make recommendations in cases where it may be necessary to make provision for any deficiency or arrange for the disposal or re-allocation of any surplus.

## ESTIMATES OF CAPITAL ACCOUNT.

40. No recommendation or proposal involving expenditure on capital account shall be voted upon by the Council until an estimate of the costs, debt, or liability proposed to be entered into has been submitted by the Finance Committee to the Council. The estimate shall be submitted by the Finance Committee without delay to the Council, with any observations they may wish to make upon its financial bearings, and the report of the Finance Committee shall be considered by the Council simultaneously with the report of the Committee making the recommendation. An estimate which does not comprise the total amount of the liability involved in any proposal shall be accompanied by a statement of such total liability and of the amount (if any) of previous votes.

41. Whenever a recommendation or proposal shall be made to the Council involving the expenditure upon capital account of a sum of money exceeding £500, or for an application to the Governor for powers, the exercise of which when sanctioned by the Governor would involve such capital expenditure by the Council, the Council shall not be asked to vote upon such recommendation or proposal until seven days after the report containing it shall have been laid before the Council and a report upon the financial bearings of the proposal shall have been submitted by the Finance Committee.

42. No expenditure on capital account shall be incurred by a Committee except upon an estimate submitted by the Finance Committee and approved by the Council and, upon such estimate being so approved, the Committee shall, upon their recommendation to the Council, be authorised to incur expenditure not exceeding the amount of the votes; subject, however, to the expenditure being within the borrowing powers for the time being conferred upon the Council.

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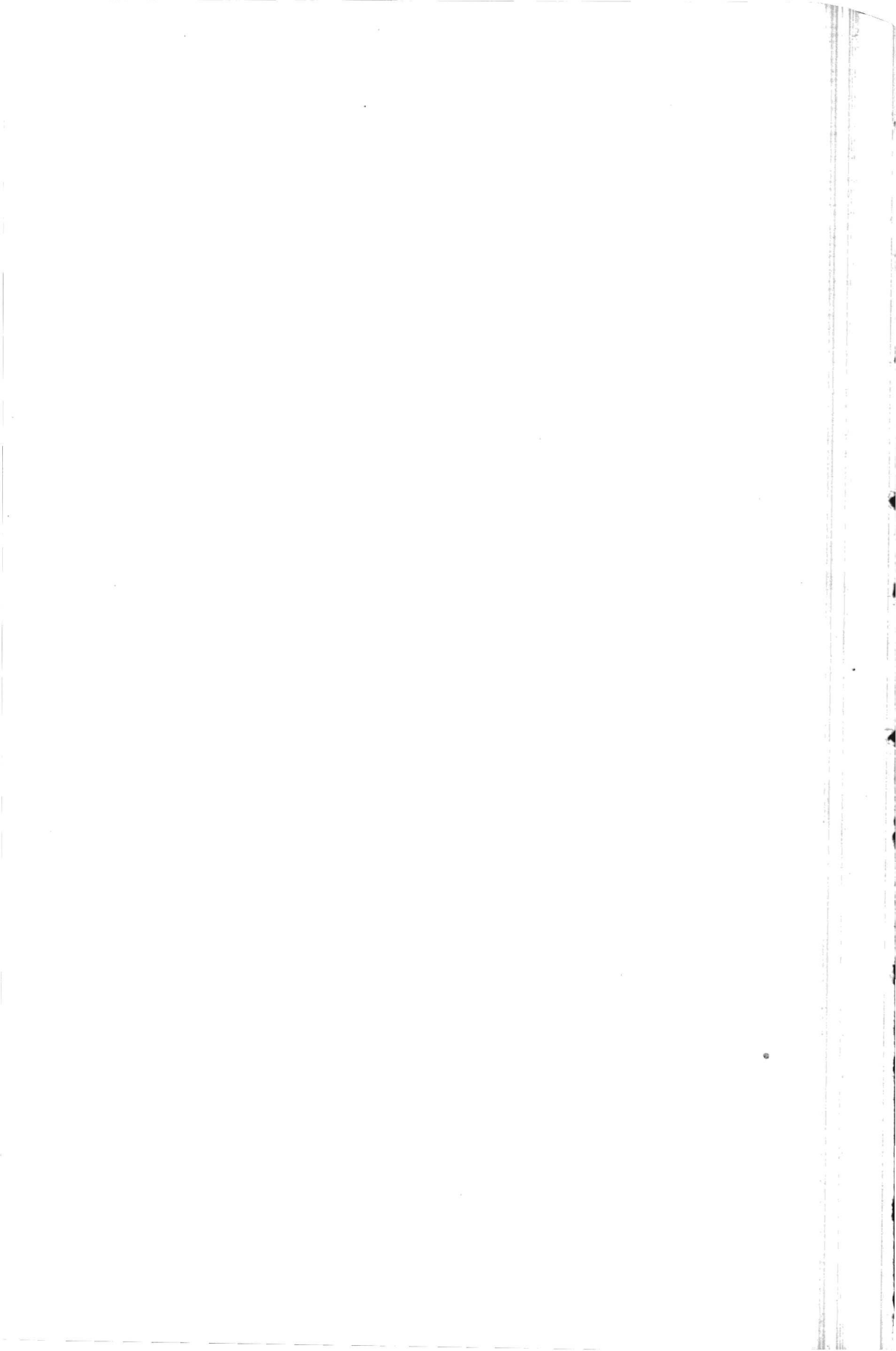
REPORT

ON

MOMBASA AND ITS ENVIRONS.

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To—

EDWARD BRANDIS DENHAM, ESQUIRE,

Companion of the Most Distinguished Order of Saint Michael and  
Saint George, Acting Governor and Commander in Chief of the Colony  
and Protectorate of Kenya,

MAY IT PLEASE YOUR EXCELLENCY,

We beg to submit our Report and recommendations as to the  
establishment of Local Government for the area of Mombasa and its  
environs.

We annex to our Report the record taken of Evidence given to  
us, the Memoranda submitted, and the various Correspondence in  
these matters.



## CHAPTER I.

## INTRODUCTORY.

The Commission held sittings at Mombasa between August 6th and 24th, 1926, and heard evidence from thirty witnesses, among whom were included the following Government officials :—the Acting Senior Commissioner for the Coast Province ; the Commissioner of Customs ; the Director of Land Surveys ; the Deputy Director of Sanitary Services ; the Medical Officer of Health, Mombasa ; the Executive Engineer, Public Works Department, Mombasa ; the Liwali of the Coast ; Representatives of the District Committee ; the Port Advisory Board ; the Chamber of Commerce ; the Indian Association ; the Indian National Association ; the President of the Goan Community ; the members of Legislative Council for Mombasa and for the Coast—Mr. W. A. M. Sim and Major R. W. B. Robertson-Eustace, D.S.O.—and certain individual residents of Mombasa. A complete list of the witnesses is printed in Appendix I. The majority furnished written Memoranda of their views.

2. The island of Mombasa, which is about 3 miles in length and 2 miles in width, is separated from the mainland by two arms of the sea—the Kilindini and Mombasa harbours—which taper off into the waters of Port Reitz and Port Tudor. It is the Port of the Colony, and, as it is the terminus of the one Railway through Kenya to Uganda, it is the seaport through which all the import and export traffic for these two countries must pass. Its importance has therefore increased and is bound to increase still further with the growing prosperity and development of the hinterland. In the decade 1914-1924 imports increased from £2,147,937 to £6,178,547 (exclusive of bullion and specie) and during the period 1922-1924 the tonnage and value of imports and exports dealt with at the Port rose respectively from 262,203 to 479,659 tons, and from £9,547,683 to £15,224,056. Further increases were registered in 1925.

Another illustration of the growth of Mombasa is to be found in the census figures of population. Between 1911 and 1921 the European population increased by 172 per cent.—from 241 to 656—and the Asiatic population by 114 per cent.—from 3,957 to 8,473. The Arab population was not enumerated in the 1911 census. This rapid rate of growth was not maintained between 1921 and 1926 when the third census was taken, but increases of 9.75 per cent. in the European and of 23.63 per cent. in the Asiatic population over the 1921 returns were recorded in 1926, when the population of Mombasa District—exclusive of passengers aboard ships in harbour on the day of the census—was found to be 720 Europeans, 9,097 Indians, 5,777 Arabs and 1,377 other non-Europeans. Thus over a period of fifteen

years the European population has increased by 199 per cent. and the Asiatic by 165 per cent., but it is noteworthy that the Arab population has, since 1921, increased only by 316, from 5,461 to 5,777, or 5.79 per cent.

These figures all refer, for purposes of accurate comparison, to Mombasa *District*, but the numbers of the European and Asiatic population of the District, exclusive of the Island, are so small that they hardly affect the position. The native population of the Island is difficult to estimate, as there is a large floating population which is constantly changing; the Resident Commissioner estimates it at 18,500; the native population of the whole District is estimated to be 25,670.

3. The Island may be divided for purposes of description into five zones: (I) The Railway and Harbour zone, some 800 acres in extent, which includes the warehouse area and that set aside for petrol storage; (II) The better class residential zone, covering approximately 420 acres and running back from the sea to the Railway line; (III) The new town commercial and Fort zone—126 acres; (IV) The Old Town of 130 acres; and (V) the semi-agricultural zone, comprising the rest of the Island—principally undeveloped, but partially occupied by scattered groups of "Makuti" huts. Plate 2 illustrates these divisions.

The first three zones are for the most part Crown property, and have been laid out in an orderly manner. The locality which we have described as a semi-agricultural area has hitherto, until the passing of the Town Planning Scheme to which we shall refer in due course, consisted of a conglomeration of freehold plots of all sorts of shapes, varying in size from 75 acres to  $\frac{1}{30}$ th of an acre, served by no roads and with no rights of access between plots, save such as are prescribed by Mahommedan law, and freely interspersed with cemeteries.

The Old Town is a much congested area of 130 acres, inhabited by about 20,000 people living under insanitary conditions. It has no public open spaces and no roads worthy of the name; access being provided by devious lanes varying from 5 to 15 feet in width. It contains some 1,900 freehold plots on which, in many places, substantial houses have been built within two feet of each other, in such a way as to preclude any other form of sanitation than the elementary pit latrine. The European residents for the most part occupy the Residential zone, though Railway and Port officials and some members of Shipping Firms live in the Railway and Harbour zone. The large majority of the Indian, Arab and "Other" population are crowded into the small area of the Old Town, and the rest of the native and Asiatic inhabitants are spread over the semi-agricultural zone.

The freehold ownership of land in approximately half of the Island is divided amongst Europeans, Indians, Goans and Arabs. In the Old Town of 130 acres, the holdings are often extremely small, and

PORT TUDOR

PLATE N° 2

M O M B A S A  
I S L A N D

5.

Kisauni

Ras Makawi Tiwi

Ras Kiberamini

Flora Point

1.

New Riv Station Res

4.

H.M. Customs

Ras Kilindini

H.M. Customs

PORT KILINDINI

KILINDINI ROAD

ROAD

MAKADARA ROAD

Mombasa Sta

Fort

UGANDA

SALIM ROAD

RAILWAY

2.

Lighthouse

Ras Serarti

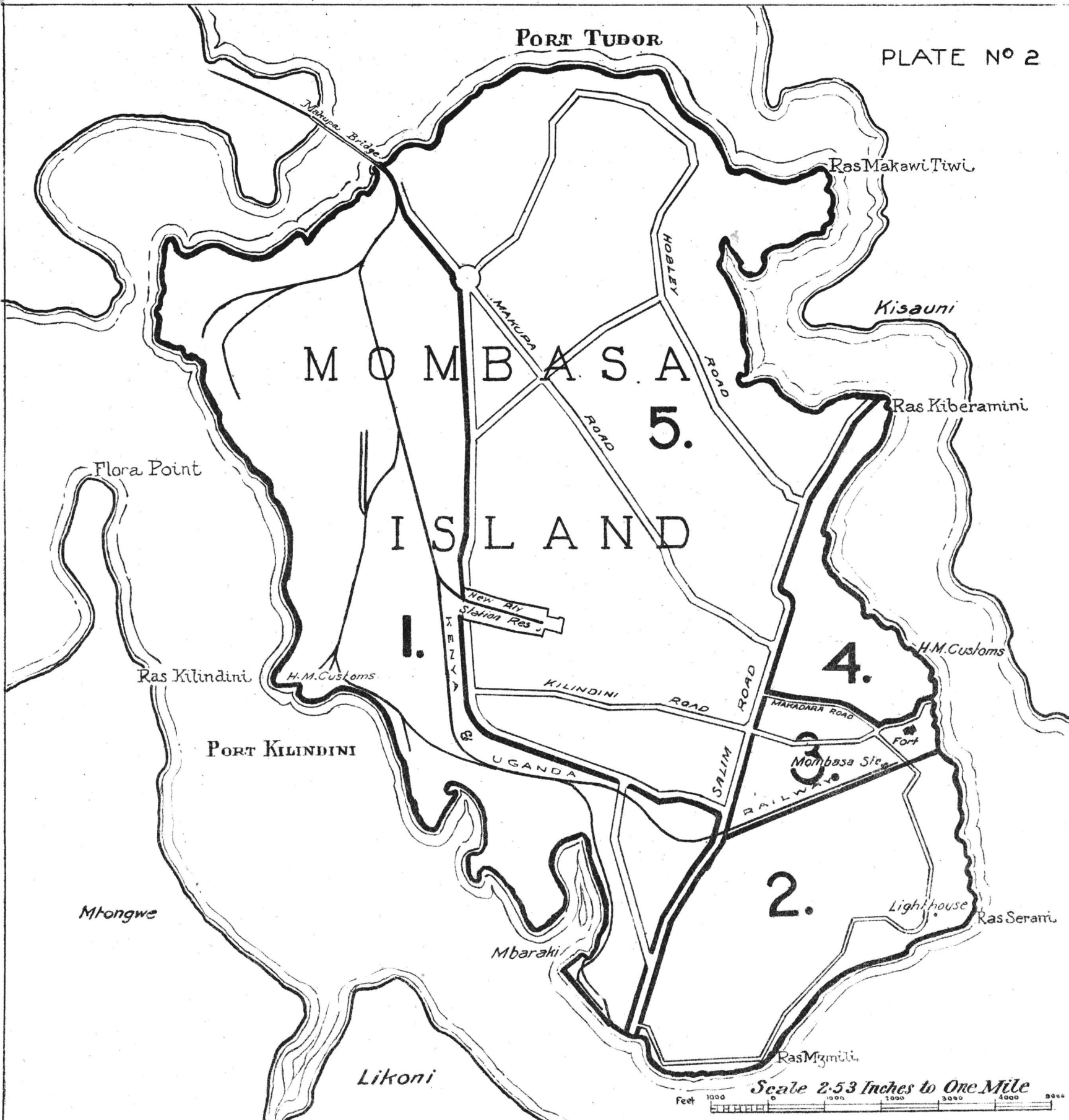
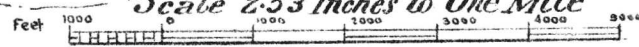
Mhongwe

Mbaraki

Ras Mzimili

Likoni

Scale 2.53 Inches to One Mile





no acreage figures of community holdings are available, though it may be recorded that 1,080 plots are owned by Arabs and Swahilis, 592 by Indians, 47 by Goans, and 13 by Europeans. In the rest of the Island the freehold ownership of land is as follows:—Europeans 300 acres, Indians 393, Goans 139, Arabs 448—the whole of this acreage is in the hands of 82 individuals and Companies—and 190 acres are split up into very small holdings mostly owned by Swahilis. The remainder belongs to the Crown, which has granted some 300 leases for 99 years. No figures of the racial distribution of these leases are available.

4. We propose briefly to record the history of the Municipal Administration of the Island since the declaration of the East Africa Protectorate in 1895, tracing the steps which have been taken towards local control of its public health, sanitation and other interests.

H.M. Queen Victoria's Order in Council of 1897 empowered the Consul General for East Africa to issue regulations on all matters incident to the good government of the country. Under Article 45 of this Order, cleaning and lighting regulations were issued on February 16th, 1900, providing that every occupier of a house in any area to which they applied should be required "to keep any path or street round his house free from dirt or refuse of any kind and maintain such light from sunset to sunrise as the Collector may approve or pay such assessment for lighting and cleaning as may be, from time to time, fixed by the Sub-Commissioner." A Notice was issued in the same year applying these regulations to Mombasa and intimating the rates of assessment leviable "upon such British Subjects or British Protected persons as elect to discharge in such manner the obligations laid upon them by the Cleaning and Lighting Regulations, 1900." In 1902 the East Africa Order in Council empowered the Commissioner to make Ordinances, and in 1903 the East Africa Townships Ordinance, now Chapter 82, Revised Edition, was enacted, which enabled the Commissioner to proclaim Townships and to issue rules for their health, good order and government. One of the first townships to be so proclaimed was the Island of Mombasa and portions of the mainland on the north and south of it; this proclamation was issued on September 7th, 1903. In the same year the responsibility for the cleanliness and conservancy of the Island was laid on an officer specially appointed to assist the District Collector of the time, and styled "The Superintendent of Inland Revenue and Conservancy." The Township Rules of May 19th, 1904, *inter alia*, placed certain responsibilities on the Medical Officer of Health and gave him certain powers, *e.g.*, powers of entry on to premises and of dealing with nuisances. His powers and duties were amplified from time to time by other Rules issued under the Townships Ordinance.

5. From the earliest days of administration the problem of how to improve the sanitary condition of the Old Town and Island generally,

and make possible the development as building land of its undeveloped parts, had exercised the mind of Government. In 1913, the first serious attempt to produce a town plan was made, when Professor Simpson was sent out by the Secretary of State for the Colonies to report on the sanitary condition of Mombasa. Professor Simpson prepared a scheme based on the principle of segregation, which provided for the various races and interests separate compartments divided by neutral zones. He also advocated the introduction of some form of local control with a strong and trained executive responsible to Government. The discussion of measures to give effect to these proposals was stopped by the outbreak of war in 1914, and, though various steps were taken during the war to prevent the aggravation of the existing difficulties and to prepare some detailed scheme, it was not until 1919 that the question of the provision to be made for the municipal government of Mombasa was revived. In that year Government appointed a Commission to enquire into the question of setting up a Municipality for Mombasa. The Commission recommended the institution of a Municipal Council with effect from April 1st, 1920, the immediate appointment of an Interim Committee of prospective Councillors to advise Government on Municipal affairs, and the preparation of a valuation roll. At this time the Town Planning Ordinance of 1919 had recently been enacted and a Public Health measure, which eventually became the Public Health Ordinance of 1921, was under consideration. It was, therefore, decided to defer action on the Commission's Report pending the enactment of the Public Health Bill, but to appoint an Authority to prepare a Scheme under the Town Planning Ordinance, now Chapter 85, and to set up an Interim Committee.

In the meantime it had become necessary to revise the conservancy and inland revenue administration. The office of Superintendent was abolished. The District Commissioner took over the collection of Revenue and control of public markets and the conservancy work was placed in the charge of the local Medical Officer of Health.

6. The appointment of the interim Committee introduced the first phase of local self-government for Mombasa. The membership of the Committee was not, nor has it since been, arranged in accordance with any definite allocation of seats amongst the different racial communities. It is composed of 6 official, 12 unofficial and certain honorary members. The official members are the Resident Commissioner, who is the Chairman, the Medical Officer of Health, the Executive Engineer, Public Works Department, the Assistant Land Officer, the District Engineer, Kenya and Uganda Railway, and the Liwali of Mombasa. There are seven European, 4 Indian and 1 Arab unofficial members, and the honorary members are the European Elected Members of Legislative Council for the Mombasa and Coast Constituencies, the two Indian Members of Legislative Council,

resident in Mombasa, the Arab Elected Member of Legislative Council and the Hon. Liwali of the Coast. The official members commonly abstain from voting and the honorary members occasionally attend and take part in discussions but do not vote. In the middle of the year 1920, when District Committees were appointed in each settled area, this Committee took its place as one of these District Committees.

The Committee is a nominated body. The power of nomination has been delegated by the Governor to the Resident Commissioner who, in practice, consults and accepts local opinion on the choice of members. The European and Arab residents have no representative Society or Organization, and it has therefore become customary, in the event of a vacancy amongst the European members, for the other members to nominate a candidate for the Resident Commissioner's approval. The Arab members are chosen by the Resident Commissioner after informal discussion with leading members of that community. The Indian members are nominees, selected at public meetings of Indians conducted by the Indian Association, and as such are appointed by the Resident Commissioner.

The Committee is advisory to the Resident Commissioner on all matters of interest to the district. It has no executive functions. In August, 1920, the then Governor issued instructions that no works affecting Mombasa should be performed without prior reference to the Committee, and, in fact, its advice has usually been accepted by Government. That part of Mombasa District lying beyond the boundaries of the Township is so sparsely populated that, although the Committee does deal with questions arising in the rural area, it is principally municipal in character. It has attracted the services of the leading men of each race, who have worked in co-operation for the welfare of the town. The Committee appears to have succeeded in discharging its duties acceptably to all sections of the community.

The members of this Committee, other than honorary members (with one recent exception) have, from time to time, been appointed under the Town Planning Ordinance to be the Town Planning Authority for Mombasa Island. It has also included the Liwali of the Coast. This authority has definite statutory status. It was appointed in 1920, and in its work its members have been brought into close touch with the social life and conditions of all classes of the community, and have thus come to speak with a large measure of authority in their capacity as members of the District Committee.

7. Between 1913 and 1920 a great deal of work was done towards producing a town plan for Mombasa on the lines recommended by Professor Simpson. About £25,000 was also spent by Government in acquiring land for neutral zones; and, in order to prevent the accumulation of fresh difficulties during the period of preparing a plan, the Mombasa Building Amendment Rules, 1917, and the Mombasa Township (Building Estates) Rules, 1917, were issued under the

Townships Ordinance. The first of these rules prohibited the building of anything but a native hut on any plot within the Island, unless the plot had been duly approved as a building plot and abutted on a public road not less than 25 feet in width. The second Rules prohibited the laying out of any new street without approval, and required that every new street should be 50 feet in width, and that no buildings other than native huts should be built, unless specially approved, which did not abut on a street of a minimum width of 50 feet. As there were at that time only three such streets, the effect of the Rules was practically to stop all development.

In the same year a Town Planning Committee was appointed, and the Director of Public Works—Mr. W. MacGregor Ross—prepared a plan in general accord with Professor Simpson's recommendations. The plan was costly, and embodied the principle of pooling. The character of the agricultural area precluded any orderly layout except by pooling, but at that time no legal machinery for that system existed. In 1919 the Town Planning Ordinance gave the required powers, and the Authority appointed in 1920 set about preparing a less ambitious scheme. The abandonment in 1923 of the policy of segregation delayed the presentation of their scheme, which was eventually submitted for approval in 1924. Two contentious questions arose out of their scheme. The Authority proposed to make owners of land fronting new streets financially responsible for constructing those streets; and in their pooling system they reckoned that the value of a new plot with road access, but 20 per cent. less in size, was equivalent to the value of an old plot without such access, and proposed to pay no compensation for the reduction in area up to that percentage. Government rejected the first proposal but approved the second. Government consulted Mr. Walton Jameson on the proposed Town Plan, and finally in 1926 approved the scheme with certain embellishments, the most notable of which were a Central Railway Station, with appropriate road approaches, and a Civic Centre. Government undertook to pay for the land required for the Railway Station, and to acquire on behalf of the Authority the land for the Civic Centre, the Authority agreeing to pay for the road approaches to the Station. Steps were taken in December, 1926, to provide funds for the acquisition of the Railway Station site, but the project for a Civic Centre has been abandoned.

The cost of the Scheme, as it now stands, is estimated at £230,000, including the Railway Station site, but the interest and redemption charges on £180,000 only have to be borne by the Local Authority. £39,500 is the estimated cost of compensation charges, £88,320 is allowed for road widening and new construction, and £38,100 for demolition costs. In 1923, when the means of raising revenue to meet town planning expenditure were first discussed, the Mombasa District Committee recommended the imposition of an unimproved

Site Value tax, and this basis of taxation was approved by Government, and by the Secretary of State for the Colonies ; Government agreeing to pay a contribution in lieu of rates on all Crown land in the Island. In the following year, however, as a temporary expedient, until the scheme had advanced sufficiently to enable an assessment on site values to be carried out satisfactorily, it was agreed to raise the interest and redemption charges on the basis of a new assessment of rental values. The Township Rules 1923 were accordingly issued. A rental valuation has been made under the Resident Commissioner's direction, but rates have not yet been imposed. We deal further with this question in Chapter IV.

8. The Town Planning Scheme does not include the Old Town, or Zones I and II described above in paragraph 3. Improvements in the Old Town are of paramount importance to the general sanitation and well-being of the Island, but land values are extremely high. A beginning has, however, been made with a sum of £50,000 provided out of Loan funds, which represents an addition to the Local Authority's liabilities.

The conditions and proposals for improving the Old Town are described by the Director of Land Surveys. " It is a much congested and very insanitary area of 130 acres, with about 20,000 people living in 2,000 houses. There are no public open spaces and no roads worthy of the name. Access is provided by lanes varying from 5 to 15 feet in width . . . There are 1,900 freehold plots, of which two-thirds are owned by Arabs and Swahilis, and one-third by Indians and Goans. European holdings are negligible, and the Crown owns less than an acre apart from the sites purchased for the Markets and Customs. The improvement of the Old Town is a big problem which filled Professor Simpson with despair . . . Mr. MacGregor Ross offered no solution, but showed one wide street through the southern end of it."

The Director of Land Surveys planned two roads, each of a minimum width of 25 feet, which could be carried through with the money available. Government approved his proposals and is putting them into effect through the medium of the Land Acquisition Act. It is anticipated that the sum of £50,000 will cover the cost of land and building acquisition, of the demolition of buildings and of road construction.

9. The total liability for improvement schemes which has to be met from local rates is thus £230,000. The Old Town Loan of £50,000 will be completely spent during 1927, and the interest and redemption charges will thus become an immediate burden on the local Authority amounting at, say, 6½ per cent. to £3,500 per annum. The Town Planning Scheme expenditure will be extended over a number of

years. Assuming an immediate expenditure of £60,000, the annual charges will amount to £3,900, increasing by £650, on each further sum of £10,000 spent.

10. At the present time, the only rate levied in Mombasa is the rate on rentals which is collected on the basis of the assessment notified in 1900, to which we referred above in paragraph 4. That basis is :—

<i>Annual Rent.</i>		<i>Rates.</i>	
Shs.		Shs.	
48 to	120 .. .. .	12	per annum.
120 „	200 .. .. .	14·88	„ „
200 „	300 .. .. .	18	„ „
300 „	400 .. .. .	20·88	„ „
400 „	500 .. .. .	24	„ „
500 „	600 .. .. .	36	„ „
600 „	1,000 .. .. .	48	„ „
1,000 „	1,200 .. .. .	60	„ „
1,200 „	1,400 .. .. .	72	„ „
1,400 „	1,800 .. .. .	84	„ „
1,800 „	2,400 .. .. .	96	„ „

The increased value of house property has rendered this rate very unfair in its incidence, in that the maximum annual rent contemplated in 1900 has been greatly exceeded, without a proportionate increase in the rate, *e.g.*, a house in Cliffe Avenue at £400 per annum still only pays Shs. 96. a year. This rate on Rentals is for cleaning the town, and for general purposes. A conservancy bucket fee is also charged, but refuse removal is carried out without special charge, though the cost of this service alone is placed at approximately £3,700 per annum. The total Municipal Revenue collected in Mombasa in 1925 was £9,511—£3,453 from the rate on rentals, £1,394 for the sanitary pail service, and the remainder from various township licences. It is well nigh impossible to ascertain from the Government system of accounting the precise cost of administering Mombasa, but these figures, an analysis of which appears in Appendix II, illustrate the fact that at present the cost of the ordinary municipal administration is about £8,750 a year more than is recovered from Municipal Revenue, exclusive of the cost of Public Health administration.

It is clear, therefore, that the future municipal authority at Mombasa will have to face the necessity of raising considerably larger sums of local revenue than have hitherto been payable.

## CHAPTER II.

## CONSTITUTION OF MUNICIPAL AUTHORITY.

The evidence heard by the Commission shows that representatives of all sections of the population are practically unanimous in favour of some advance now being made in the direction of local self-government for Mombasa, but that opinions differ as to how far that advance should extend, and as to whether Mombasa, at its present stage of development, is ready for "full municipal government"—a phrase which may be interpreted in this context as meaning the establishment of a Municipal Council consisting entirely or mainly of elected members, endowed with all ordinary Municipal powers, employing its own staff, and carrying full financial responsibility. While some held that advance to the goal of "full municipal government," as so interpreted, should now be made at a single stride, others considered that the special circumstances of Mombasa require the adoption of a plan which represents an intermediate stage between the existing system, under which local affairs are controlled by a Government Officer with the assistance of a nominated Advisory Committee, and a fully developed Municipal system.

2. It is, we think, clear that the time has come for setting up in Mombasa a local representative body with power to raise revenue and incur expenditure for certain municipal purposes. This may be described as the minimum measure of municipal development which all witnesses were agreed in recognising as desirable. The main reasons given in support of this view may be summarised as follows:—

(1) Mombasa has reached a stage of development when it is necessary to make increasing provision for municipal services, and to establish some authority on the spot with power to conduct such services in accordance with local requirements, without being subject to the delays and restrictions which frequent references on matters of detail to Government Departments at headquarters are apt to involve.

(2) For the purposes (a) of meeting the loan charges on the sum required to carry through the Town Planning and Old Town Improvement Schemes, and (b) of affording means for general municipal development, a considerable increase of local taxation has become inevitable; and some local body representative of the ratepayers must therefore be created, which will have authority to impose such taxation.

While up to this point there is substantial agreement, opinions differ as to whether the proposed local body should be elected or

nominated, or partly elected and partly nominated, as to the voting qualifications and method of election in the event of its being constituted wholly or partly on an elective basis, whether it should include official Government representatives, what should be the extent of its powers and responsibilities, and how far it should be subject to Government supervision and control.

The specific limitations on full municipal government suggested included proposals in favour of nomination rather than election, the appointment of a Government Chairman, the use of the services of Government officers in the place of the appointment of a municipal staff, and various degrees of Government supervision.

3. The main reasons advanced against regarding Mombasa as ready for the establishment of an elected municipal body were based on considerations affecting the character of the electorate, and the extent to which persons well qualified to serve as Councillors were likely to be available as candidates.

Figures as to the racial composition of the population of Mombasa have already been given in Chapter I. Of the four communities which make up the population, the European is very much the smallest, but the importance of its contribution to the business activities and general life of the town is quite out of proportion to its numbers. Apart from the principal Government officials, its leading men are representatives of Oversea business firms ; its rank and file are made up of Government and commercial employees.

The Indian community, which is very much larger in number, is mainly a commercial community, and counts among its members the heads or managers of some important business firms, and many landowners, but a certain proportion of the total number of Indian adult residents are illiterate, and a much larger proportion cannot read or write English.

The Arab community, the leading members of which have large landed interests, includes only a very small number of persons who speak English with fluency, but the great majority of male adult Arabs are able to read and write Kiswahili in Arabic characters.

The African portion of the population, with the exception of a section of the Swahilis, consists almost entirely of labourers, who have no knowledge of reading or writing and who have only very recently come in contact with civilization. It has been suggested that a limited class of Swahilis should rank for political purposes with Arabs ; we shall revert to this question at a later stage.—*See* para. 21 below.

In considering the question of an elected body, it is generally assumed that the African has not yet reached a stage at which he is ready to take any direct share in representative institutions. There are, of course, individual exceptions, but the position of the community as a whole appears to be in accordance with this assumption.

The question of representation has, therefore, to be dealt with on the basis that the communities which can claim direct representation are the European, the Indian, and the Arab, with the possible addition of the small Goan community, whose claim for recognition we will examine later.—See para. 16 below.

4. The present District Committee of Mombasa, in the memorandum which it laid before us, stated its view “that the Council should not be constituted on a definite electoral basis immediately,” and suggested that “for the first few years at any rate the whole Council should be nominated by the Central Government in consultation with its local representative, having due regard to the voting strength of the various communities.”

Mr. P. Barry, who appeared before us to give evidence on behalf of the District Committee, amplified the views expressed on this question. He said “The Committee has not been and also is not at present in favour of election at all, and neither am I. To begin with, I should like to see entire nomination. The reasons for it are a little difficult, but one thing is that there are no heads of firms in this place—I am not talking now of Asiatics, but of Europeans—all the European firms are represented by Managers who are here for the time being, and I think I may say that, as a general rule, their firms would object to their standing if it came to a matter of election. What would happen if it became a Committee with executive powers I am unable to say; I think a certain number would drop off even then, but when it was by election they certainly would. Another reason why at present I am against election is that it brings up at once the racial question, viz., how many Asiatics, Natives and Europeans should be on the Council and how voting is to be done. As you may be aware, it has been a very vexed question in this country, and up to the present I think Mombasa has kept extraordinarily free from large differences between the different races, but the question will arise then, and it is going to be a very difficult question to solve. One more reason is that I think that a great majority of the adults in Mombasa are of a very uneducated type, taking them from all classes; of course a certain number are fit to vote, but if it came to universal voting I think we are not ready for it yet.”

Mr. Barry further said: “This memorandum” (quoted above) “was unanimous, and was adopted at a very full meeting of the Committee. One point was raised, viz., as to whether a certain number of members should be elected, but that was not pushed home. The majority were in favour of what was recommended, and finally all present agreed to the memorandum as it now stands.”

Mr. Patel, one of the Indian members of the District Committee, informed us that the District Committee had considered a proposal that the majority of the new municipal body should be elected members,

and that he, with two others, had voted in favour of this proposal, which was defeated by 5 votes to 3.

5. The views of the Mombasa Chamber of Commerce, as expressed in resolutions submitted to us, were to the effect that the Local Authority for Mombasa should consist of 12 members nominated by Government. In supporting this resolution, Mr. W. A. M. Sim, the President, stated that the European community was a very floating population, as most Europeans, being employees of business firms with offices at different centres, were liable to be shifted from one place to another, and that this also applied to a certain percentage of the Indian community; he also said that such employees would have to ask permission from their firms to stand for election, and that such permission might be withheld. In reply, however, to a question as to the possibility of establishing a body consisting in part of elected, and in part of nominated members, Mr. Sim said, "My personal feeling is that if we had a few elected members it would certainly overcome the difficulty about no taxation without representation, but I think the best men, those to whom we have to look for help and guidance, would not stand for election." He thought, however, that the persons whom he had in view, and whose services it was desirable to secure, would have no objection to sitting as nominated members of a body which also contained elected members.

6. The views expressed by Mr. Barry on the question of preferring election to nomination, and on the reasons for this preference, may be taken as typical of those held by most of the European witnesses from Mombasa who appeared before us. Generally speaking, such views may be summarised as follows:—

(1) In the case of the European community, on which, in the initial stages, the largest share of responsibility for the successful conduct of municipal affairs in Mombasa must rest, its composition is such as renders it difficult for its leading members to stand for election, even though they may be prepared to devote their time to service on a Municipal body;

(2) The difference between the races represented in the population of Mombasa is such that they cannot be regarded as having as yet developed such a basis of common ideas and aspirations as would enable them to work successfully together as electors or, with the exception of a certain number of individuals, forming a comparatively small proportion of the entire population, as members of a municipal body;

(3) The inhabitants of Mombasa, if granted a municipal vote on the basis of a moderate property qualification, would constitute an untried electorate, of which many would be unable to read or write, while a still larger proportion would be quite unfamiliar with the working of representative institutions.

It should be noted that apart from the above reasons, which were freely stated, there was also evidence of a feeling among Europeans that the establishment of an elective system would endanger the position of the European community, and the future of the town, owing to the claims which would be made by other communities for such a share in the representation as would leave the Europeans in a minority. Whatever view may be taken on this point, to which we shall revert presently, we think it would be wrong to deny to each community the opportunity of electing for itself representatives, merely because of the difficulty of providing for a satisfactory apportionment of representation between the different communities. That is a difficulty which has to be faced, whether the members of the new municipal body are chosen by election or nomination.

7. Representatives of the two Indian Associations, and some other members of the Asiatic community, urged upon us that, in view of the development of representative institutions in India, and of the share which Indians have taken in the work of the Mombasa District Committee, and are also taking in the work of the Legislative Council of Kenya, through representatives who have been chosen by a process of informal election, there is no reason why the grant to Indians of full electoral privileges in the sphere of municipal government should be delayed, and that the best way of bringing Europeans, Indians and Arabs together for the purpose of co-operation in the municipal development of Mombasa is to grant the municipal vote to members of all communities on the same basis, to have a common voters' roll, and to hold elections on the ward system; the division into wards and the representation allotted to each ward being based on the number of voters, so as to give effect to the principle of "one vote one value."

8. The representatives of the Arab community, who gave evidence, were of opinion that the time had come for the establishment of a municipal body in Mombasa, and were in favour of elections being held for the purpose of choosing the members of such a body, but it does not appear that there are at present many Arabs who are likely to take an active interest in municipal affairs, and some doubt was expressed on the question whether the Arab community could as yet be regarded as ready to take part in municipal elections. Seyyid Ali bin Salim, Liwali for the Coast, said that his people were at present only in the stage of learning about municipal affairs, and that it was very difficult for them to take an interest when they did not know the English language. On the question whether their representatives should be chosen by election or nomination, he said, "I think the people will be happier if they are allowed to elect for themselves, but no doubt nomination is better. There are not more than two or three people here" (*i.e.*, among the Arab community) "who could offer themselves for election. They have the right of election to the

Legislative Council, but at the last election there was only one candidate and very little interest was taken."

9. Whatever may be the developments which the future holds in store, we do not consider that the European, Indian and Arab communities in Mombasa have as yet progressed so far along the path of a common political development as to justify the creation of a common voters' roll, which would disregard community divisions, and we believe that any attempt to hurry such progress by methods for which the different communities in their relations to each other are not yet ready would defeat itself and would hinder, instead of promoting, the development of co-operation for the good of the population as a whole on the basis of common ideals. We are, therefore, satisfied that under present circumstances it is necessary for the purpose of choosing municipal representatives, either by nomination or election, to make separate provision for the representation of the different communities. We are, however, of opinion that the municipal constitution to be adopted for Mombasa should provide for the inclusion from the outset of some elected members in the new municipal body.

It is most important that at this stage in its municipal history the inhabitants of Mombasa should be stimulated to take an active interest in the municipal affairs of the town, and we think that the best way to secure this result is to give them the opportunity of taking part themselves in the choice of some, at least, of the members who are to serve on such a body. It would be difficult to ensure such interest if the management of municipal affairs were entrusted to a body consisting entirely of nominated members. The inclusion of elected members will also help to make clear the representative character of the new municipal body, and to give it an authority which a body consisting entirely of nominated members might not possess. At the same time we do not think the time has come for establishing a body consisting entirely of elected members. The electorate lacks experience, and this is a reason for making an advance by gradual stages, and not casting on the new voters entire responsibility at the start. Further, the statements, made by witnesses of standing, that some of the best qualified men may be unwilling, or may find themselves unable, to come forward as candidates for election cannot be disregarded. In order to secure the wise treatment of the important municipal questions which will have to be dealt with in the near future, Mombasa requires the services of men of capacity and training, accustomed to take long views, and it appears that in some cases such men may be available as nominated members, though they would not stand for election.

The question of Government representation has also to be considered. The arguments in favour of Government having some representation on the new municipal body will be referred to presently; it is obvious that such representation can only be secured by nomination.

We recommend, therefore, that the new municipal body to be established for Mombasa should consist partly of elected and partly of nominated members : of the latter, some should be official members.

10. We have already expressed the opinion that it is necessary, in constituting a municipal body for Mombasa, to make separate provision for the representation of the different communities. We propose now to deal with the question of the total number of members of the new body, the proportion of such number who should be elected members, and the number of representatives to be allocated to each of the three communities—European, Indian and Arab.

As constituted to-day, the District Committee of Mombasa consists of 12 unofficial members (7 Europeans, 4 Indians, and 1 Arab) and 6 official members, including the Chairman (the Resident Commissioner), and certain honorary members—*see* paragraph 6 of Chapter I.

The District Committee proposed that the new Municipal Body should consist of not less than 9 and not more than 12 members, and the Chamber of Commerce recommended that the number should be 12 ; other suggestions as to numbers were for the most part in favour of the Committee consisting either of 9 or 12 members. It appears, however, from the evidence given that these suggestions were based on the idea that the new body would conduct its business in the same way as the District Committee—which does not as a rule work through sub-committees, but deals with all its business at meetings of the full committee—and that they were influenced by the desire to secure that the transaction of detailed business should not be unduly delayed owing to the presence of a large number of members each desiring to contribute to the discussion.

We think that it is clear that the new Municipal Body will have a much greater volume of business to transact than the existing District Committee, and that it will be well advised to follow the example of other municipal bodies by adopting what is known as the " Committee System," that is, by distributing its work among three or four, or possibly more Standing Committees, which will receive the reports of officials, discuss the details of those parts of the municipal administration with which they are respectively concerned, and submit their reports and recommendations to the full body. This system, while it has the advantage of bringing individual members into close touch with the working of different municipal departments, saves the time of the municipal body as a whole by ensuring that proposals shall be fully considered in private before being submitted in public for final acceptance, and that discussions in the full body shall be devoted in the main to important matters and to questions of principle, instead of the time of a large number of members being taken up by minor matters of detail. Each Standing Committee should, we think, as a rule consist of not less than five members, with a quorum of not less than three, and in order that such Committees may be adequately

manned, without imposing an undue tax on the time of individual members, it will be desirable that the Municipal body should consist of more than twelve members. If the Committee System is to be adopted, we think that the total membership of the proposed municipal body should be increased ; We propose that it should be not less than nineteen and not more than twenty-three.

Of this total number we think that in the first instance not less than one-third should be elected members.

11. With regard to the representation of the three communities, European, Asiatic and Arab, suggestions have been made to us that such representation should be proportionate either (*a*) to the actual numbers of each community, or (*b*) to the estimated voting strength of each community, or (*c*) to the value of the landed interests held by members of each community. Where only a partial introduction of the elective system is proposed, it would in our opinion be clearly inappropriate to base the representation of different communities either on numbers or on estimated voting strength. With regard to the latter suggestion, any estimate of voting strength necessarily involves some assumption as to what would be the voters' qualifications if there were a uniform franchise applicable to all communities alike ; if, however, communities are to be separately represented, it is unnecessary and may be found undesirable to attempt to fix even provisionally any such qualifications. The value of landed interests held by members of each community is a factor which should not be entirely disregarded in considering the apportionment of representation, but this factor alone certainly does not provide a suitable basis for such apportionment.

12. Reference has already been made to the attitude of European witnesses on the question of European representation and views have been expressed to the effect that European members should form the majority of the new municipal body to be created for Mombasa, or that the number of European members should at least be equal to the total number of members drawn from other communities.

Apart from arguments drawn from the general political circumstances of the Colony and Protectorate, the principal reasons urged in support of these views were :—

(1) That the Europeans resident in Mombasa, though comparatively few in number and not themselves owning much landed property, represent Companies or firms which have invested a large amount of capital in Mombasa, and control the most important undertakings connected with the business life of the town, such as banking and shipping ; and

(2) That the men who are personally best qualified to serve on a municipal body are mainly to be found among the European community, including as it does the managers of the business undertakings above referred to, and certain leading Government officials.

In our opinion it is essential that the new municipal body to be created for Mombasa should be constituted in such a way as to make it an efficient instrument for the conduct of municipal affairs at this critical stage in the town's development—when the adoption of the Town Planning and Old Town Improvement schemes have opened a new chapter in its history, and so much work of vital importance has to be carried through or initiated. While the constitution of the municipal authority must be so framed as to secure representation of all interests which are fairly entitled to a voice in the management of Mombasa's affairs, it would be a mistake to sacrifice efficiency in an attempt to secure the appearance of equality by apportioning representation to the different communities on any theoretical basis. All communities will gain by the economical and efficient conduct of Mombasa's municipal affairs, just as all will suffer from the results of extravagance or inefficiency. While, therefore, we appreciate the value of the increasing contributions, which other communities have it in their power to make, to the work of building up the future of Mombasa, and recognise the importance of securing the whole-hearted co-operation of representatives of all communities, we consider that at the present stage the European community should in the general interest be invited to accept the heaviest share of responsibility, and should therefore be allotted the largest share of the total representation on the new municipal body. This has actually been the position on the District Committee, which during the last few years has afforded such an encouraging example of co-operation between members of different communities, and has played such a valuable part in preparing the way for further municipal development, and it is desirable, for the purpose of securing continuity, that as many as possible of those who have gained experience as members of the District Committee should be available to serve on the new body.

13. There is the further question of Government representation. Most witnesses have recognised that it is desirable that the Government should be represented by a Government official on the new municipal body. Not only is a Government officer required to represent the interests of the large Native population, to which no direct representation can at present be granted, but Government will necessarily have to provide a considerable contribution to municipal revenue. The working out in detail of the line to be drawn between Government and municipal activities, especially where the interests of the Native population are concerned, will necessarily be a gradual process. For these reasons it is desirable that the Resident Commissioner, who has hitherto been the executive officer responsible for the conduct of Mombasa's municipal affairs, and has acted as Chairman of the District Committee, should be a member of the new municipal body, and in the first stage of its existence we think that he should be appointed Chairman.

14. We propose, therefore, that the new municipal body for Mombasa should be constituted on the following lines :—

The total number of members should not be less than 19, and should not exceed 23 ; and should include :—

- (1) Official members,
- (2) Elected members,
- (3) Nominated members.

(1) *Official Members.*—The Resident Commissioner should be a member, and should at the outset be appointed as Chairman. For reasons given in Chapter VI., we consider it desirable that provision should be made for the representation both of the Kenya and Uganda Railway Administration, and of the Port Authority, and we consider that each of these authorities should be entitled to appoint one representative.

(2) *Elected Members.*—There should be 9 elected members—of whom 5 should be European members, 3 should be Indian members, and 1 an Arab member.

(3) *Nominated Members.*—The remaining members should be nominated. The power of nomination should be so exercised as to give additional representation to the European and Indian communities, as follows :—

Not less than 5 and not more than 7 Europeans,  
                   "    "    1                   "                   "                   3 Indians,

and also, for reasons given below, to provide one representative of the Goan community.

In the exercise of powers of nomination, the question of the suitability of candidates available in the communities concerned, and the desirability of securing adequate representation of important interests, such as the landowning and commercial interests, should both be taken into account. The representatives of the European community will, according to these proposals, consist of not less than ten members, of whom five will be elected and five nominated. Provision is made for the possible addition of two nominated members ; If, however, the number of European representatives is increased to twelve as a permanent measure, we think it would be desirable to maintain equality in the numbers of elected and of nominated representatives, and to provide, therefore, that six should be elected and six nominated.

The proposed municipal body will therefore, in accordance with the above proposals, be constituted as follows :—

A.—On the minimum basis, where it consists of 19 members it will include :—

- 3 Official members ;
- 10 European representatives (5 elected, 5 nominated) ;
- 4 Indian representatives (3 elected and 1 nominated) ;
- 1 Arab representative—elected ;
- 1 Goan representative—nominated.

B.—On the maximum basis where it consists of 23 members, it will include :—

- 3 Official members ;
- 12 European representatives (6 elected and 6 nominated) ;
- 6 Indian representatives (3 elected and 3 nominated) ;
- 1 Arab representative—elected ;
- 1 Goan representative—nominated.

The above summary shows, for purposes of comparison, how the Board would be constituted if either the proposed minimum or the proposed maximum number were adopted, but we wish to make it clear that our proposals have been so framed as to leave open for adoption any variation of the composition of the Board intermediate between the maximum and the minimum basis.

In putting forward these proposals for Mombasa, we desire to refer to the views expressed in the Nairobi Report of this Commission on the question of racial representation in relation to the Municipal constitution of Nairobi, and to apply to the case of Mombasa the two propositions laid down in that Report.

The question of the representation to be provided for the European and the Indian Communities respectively in the constitution of a Municipal Body for Mombasa, should therefore in our opinion be decided on the basis of the two following propositions :—

(1) That it is essential that the European community should, under present circumstances, be entrusted with the larger share of responsibility for the municipal Government of Mombasa, and that the proportion of European representation on the Board should be in conformity with the obligations of this trust ;

(2) That it is also essential that the Indian community should have such representation on the Board as will enable it to give effective co-operation, and as will ensure full consideration of the special interests of the Indian inhabitants.

In applying these propositions to Mombasa, it is necessary to take into account the special local conditions, including the conditions requiring that representation should also be accorded to other communities. In framing the above proposals we have taken such conditions into account and we consider that these proposals fulfil the two essential requirements thus stated.

We recommend that the new municipal body for Mombasa constituted on the lines above stated, should be entitled the "Mombasa Municipal Board," a name which will serve to indicate that Mombasa has not yet reached the stage of full municipal development usually associated with the use of the terms "Council" or "Corporation." One of the points of distinction will be that the Chairman of the Board will be appointed by the Governor.

15. Government officials should, in our opinion, be regarded as eligible for nomination as members of the Municipal Board in their

private capacity as citizens. We make this recommendation in view of the rather exceptional circumstances of Mombasa, and of the importance of the official element in the small European population. In connection with this last point, the following extract may be quoted from the evidence given by Mr. G. Walsh, Commissioner of Customs, who has himself resided in Mombasa for over 13 years.

“THE CHAIRMAN: . . . Apart from the question of whether particular officials should sit on the authority by virtue of their office, there is a question as to whether officials generally should be eligible for service as members of the authority, and whether, if they were eligible, they would be willing to serve and devote their time and energies to municipal work. What do you say?”

“WITNESS: I should say most would be willing, and I certainly think they should be eligible.

“THE CHAIRMAN: You think that the local authority might benefit if there were this addition to the field of selection?”

“WITNESS: I think it would be a very important thing, especially as the official community of this country forms a very considerable part of the total population. The Civil Service are trained on those lines, they look at things impartially, and I cannot see why they should not take part in their private capacity. They should have an entirely free hand to express their opinions irrespective of whether they happen to conform with the ideas of Government or not.”

It appears that the total numbers of Government officials, European and Asiatic, resident in Mombasa, are as follows:—

Europeans, 115, of whom 45 are in Railway employment.

Asiatics, 617, of whom 372 are in the service of the Railway.

16. We come now to the question of the representation of the Goan community. According to the 1926 Census Returns, the number of Goans resident in Mombasa Island at the date of the Census was 732—of whom 552 were males, and 180 females. Most of them speak English, many occupy subordinate positions in Government and commercial offices, some are established in business on their own account, and there are among them 11 landowners, owning between them 139 acres, but of this total 90 acres are owned by one firm. Mr. S. R. de Freitas, who appeared before us on behalf of the Goan community in Mombasa, of which he is President, urged that the Goans should be granted representation on any municipal body which might be established for Mombasa. He based this claim on the general position of the Goans as a community long established in Mombasa, on the ground that similar claims had been recognised in the past by according to Goans representation on the District Committee, Mombasa, and on the Municipal Council, Nairobi, and that in various towns of India, Goans possessed the municipal franchise. It appears that a Goan representative was appointed to the Mombasa District Committee in 1924, but that he fell ill, and attended very few meetings. The Goans are represented by one member on the Nairobi Municipal Council. We think in view of the fact that they are an English

speaking community with a recognised position in Mombasa, it is desirable that they should be accorded representation on the new Municipal Body.

In this case, in order to enable the Goans to be represented by a Goan, an exception should, we think, be made to the general rule requiring that members of the Board should possess the qualification of being British subjects. The waiving of this qualification in the case of the Goan representative appears to us to be justified by the special circumstances of the Goan community, but we do not propose that formal elections should be held for the choice of a Goan representative. It must be recognised that the arrangement whereby a special representative is provided for a community consisting of persons who are not British subjects, is of a wholly exceptional character, and, while we advise that it should be granted as a special concession to the community concerned, we do not think it should be put on a legal basis by constituting the Goans as a separate electorate under the Municipal Elections Law.

We propose, therefore, that the Governor should have power to nominate a representative of the Goan community, and that, if it is his wish that an informal election should be held for the purpose of enabling the Goans to submit proposals to him as to the person to be nominated, such an election should be arranged and conducted under the auspices of the Municipal Board.

#### VOTERS' QUALIFICATIONS.

17. *European*.—We suggest that the following voters' qualifications should be adopted :—

- (1) European origin or descent ;
- (2) Age not less than 21 years ;
- (3) Either (a) Ownership of rateable property within the Municipality to the capital value of £100,  
 or (b) (1) Residence in the Municipality for 12 months out of the 24 months preceding the date of registration, and  
 either (2) Occupation for a like period of premises in the Municipality, of an annual value of £36,  
 or (3) In receipt at date of registration and for six months out of the twelve months preceding such date of earnings at the rate of not less than £15 per month.

Provision should be made that a married woman who is a European adult, resident in the Municipality, shall be qualified to vote in respect of a residential qualification as stated in (3) *b*, even though not qualified under (*b*) 2, or 3, if her husband is so qualified.

If a Municipality be divided into wards for the purpose of the election, provision should be made that a voter shall be entitled to vote in every ward in which he is qualified; he should be regarded as qualified, in the case of an ownership qualification, in the ward in which the property is situate; in case of a residential qualification, in the ward in which he is resident. No voter should have more than one vote in any ward.

It will be noted that the qualifications stated do not include the requirement that a voter shall be a British subject. Different opinions were expressed as to the inclusion of this qualification. The total number of European aliens resident in Mombasa as recorded at the 1926 Census, was III. Aliens owning rateable property will, of course, be liable to the payment of rates: and it is the case that it is not open to aliens resident in the Kenya Protectorate to become naturalized British subjects by virtue of residence in the Protectorate.

It may be noted that New Zealand affords a precedent for admitting aliens to the local government franchise, while excluding them from membership of local government bodies.

There should be the usual disqualifications for voters on similar lines to those which apply under the Legislative Council Ordinance.

(2) *Candidates' Qualifications.*—The qualifications of candidates should be the same as of voters, but a person should be disqualified for election as a member of a municipal body if he

- (1) Is not a British subject;
- (2) Cannot read, write, and speak the English language;
- (3) Is in the employment of the municipal authority;
- (4) Has been convicted of a criminal offence and has been sentenced to a term of imprisonment of either description for a term of 6 months, or exceeding 6 months, and has not received a pardon. Provided that the Governor in Council may by order in any particular case remove such disqualification;
- (5) Has received from any public funds whatsoever within twelve months of his nomination as a candidate for election.

18. We recommend that any British subject of Indian origin or descent, or Indian under the suzerainty or protection of His Majesty, should be qualified as a voter or candidate, if possessed of the same qualifications as apply to Europeans subject to the substitution of £12 for £36 as the annual value of premises for the purpose of the occupation qualification in (*b*) 2, above; and of £5 for £15 for the purpose of the earnings qualification in (*b*) 3, above.

19. *Arabs.—Voters' and Candidates' Qualifications.*—In the case of the Arabs, we have assumed that the qualifications under the Legislative Council Ordinance will apply to their municipal franchise. The provision in the law regulating elections to the Legislative Council with regard to the qualifications of Arab voters is to the effect that a person is entitled to vote if he is a "male Arab, a British subject, and able to write Arabic or Swahili in Arabic characters." The existence of an Educational qualification differentiates their case from that of other communities.

20. *Term of Office.*—We propose that the term of office for members of the Board should be three years, and that one-third, or as near as may be, of the total number of elected members should retire annually; in the case of members chosen at the first election, those who are to retire should be chosen by lot, unless a ward system is so arranged as to provide that each ward shall elect a number of members divisible by three—in the latter case, the members will retire in the order fixed by their places in the Poll.

21. We now revert to the point referred to in the third paragraph as to the inclusion with Arabs of a limited class of Swahilis. Sheikh Hemed bin Mohamed, elected Arab member of the Legislative Council for the Coast, suggested in the course of his evidence that "high class Swahilis" should be regarded as qualified to vote in municipal elections; and that such Swahilis should for the purpose of voting be classed with Arabs. On examination of this suggestion, it appeared that the witness intended the term "high class Swahilis" to mean those Swahilis who are classed as such by reason of descent from Arab fathers and native mothers as distinct from the large number of natives who have come to be termed "Swahilis" merely by reason of migration to and residence on the Coast. There seems to be some uncertainty as to the correct classification of the special section of Swahilis referred to, but if, as has been suggested to us, the right test of a claim to rank as an Arab is descent by the male line either from Arabs, or from persons themselves descended in the male line from Arabs, it would appear that those who belong to this limited section of Swahilis are already qualified to vote as Arabs. If there is at present a doubt on this question, it is, we think, desirable that steps should be taken to clear up the position. From the information at our disposal, it would appear that the additional number of persons who would be covered if the term "Arab" were interpreted as including Swahilis of this limited class, and who would thus become entitled to obtain the franchise as Arabs, would include some landowners on Mombasa Island, and would, generally speaking, be persons who might reasonably be classed with Arabs for franchise purposes.

22. *Functions of Municipal Boards.*—While use of the term “Board” marks a stage of municipal growth less advanced than would be implied by use of the term “Council,” we have assumed, in proposing that the municipal body established for Mombasa should be a Municipal Board and not a Municipal Council, that the distinction between a Board and a Council will depend in the main on differences in the constitution of such bodies rather than in the character and extent of the powers conferred upon them. The differences in their constitutions will be, as already indicated, that while a Council will consist mainly, if not entirely, of elected members, and will elect its own Mayor, a Board will consist partly of elected and partly of nominated members, and will have a Chairman, appointed by the Governor.

We propose, therefore, that no separate list should be made with a view to restricting the powers which may be exercised by a Municipal Board as compared with those to be exercised by a Municipal Council, but that, subject to the special provision with regard to public health mentioned below, the laws relating to local government should be so framed as to endow a Municipal Board with general municipal powers, similar to those conferred on a Municipal Council, and that such laws should provide for similar supervision over the activities of both Boards and Councils, save in one important respect. In each case the Governor’s sanction will be required for proposed bye-laws, for the making of certain appointments, for charges to be made for municipal services, and for the exercise of certain specified powers of an important character, and the sanction of the Governor in Council will have to be obtained for the raising of any loan and for levying any rate which exceeds a certain fixed limit. There will also be provision for audit by Local Government inspectors. In the case of Public Health and of Native Affairs, special provision will be made as to the fulfilment by the local authority of its functions. With regard to Public Health, we propose that a Municipal Council should automatically become the local authority for its area under the Public Health Ordinance, and should thus become responsible for all Public Health administration in its area, but that a Municipal Board should not assume this responsibility unless it has been specially appointed as a local authority for public health purposes.

23. With regard to the question of general financial supervision, we propose that an important distinction should be made between the position of a Municipal Board and that of a Municipal Council. The existing Municipal Corporations Ordinance provides in Section 25 that :—

“ 25. The municipal council shall in each year prepare a budget showing the estimates of revenue and expenditure of the Council for

the ensuing year and such budget shall be forwarded to the Governor in Council for sanction and when approved an abstract thereof shall be published in the *Gazette* and the budget shall come into force from the first day of January in the year for which such estimates shall be prepared ; and the Council shall not incur any expenditure which has not been included in such estimates and approved in such manner except with the sanction of the Governor."

While we propose that, in the case of a Municipal Council, this provision for sanction of its estimates by the Governor in Council should no longer apply, we consider that in the case of a Municipal Board, which cannot be regarded as having yet attained full municipal status, a provision of this nature should be retained, but in an amended and less onerous form. The object of such a provision should be to enable the Government to maintain a measure of control over the general financial policy of a Board (including its exercise of powers of taxation) without unduly restricting its freedom or involving interference in the details of its expenditure. We append a draft clause embodying our suggestions on this point.

As will appear from our financial proposals contained in Chapter IV, failure to comply with the terms of this clause might lead to a reduction of the Government's statutory contribution in lieu of rates under the power which it is proposed to reserve to the Governor in Council—(cf. draft clause appended to Chapter IV of the Commission's Report on Nairobi and its Environs).

#### CONTROL OF EXPENDITURE OF MUNICIPAL BOARDS.

##### *Draft Provisions.*

The Governor in Council may require that the Annual Estimates of revenue and expenditure of any Municipal Board shall, not less than one month before the commencement of the financial year, be submitted to the Governor in Council for approval ; if the Governor in Council notifies the Board that he is not prepared to approve such estimates as submitted, the Board shall make such amendments as may be necessary for the purpose of obtaining such approval.

Where such approval is required the following conditions shall apply :—

- (a) If, at any time during the course of the financial year, it shall appear to the Board that, owing to a need for new works or services or to the growth of existing services or to any other cause, the total expenditure of the Board will exceed the amount provided in the Annual Estimates for such financial year the Board shall, as soon as may be, submit revised Estimates of revenue and expenditure for such financial year for the approval of the Governor in Council ; and no such excess expenditure shall be incurred until such revised estimates have been so approved ;

(b) It shall be the duty of the Local Government Inspector from time to time to compare actual expenditure made and incurred with approved estimates and to report to the Commissioner for Local Government any case in which it shall appear to him that there has been any serious departure from such Estimates.

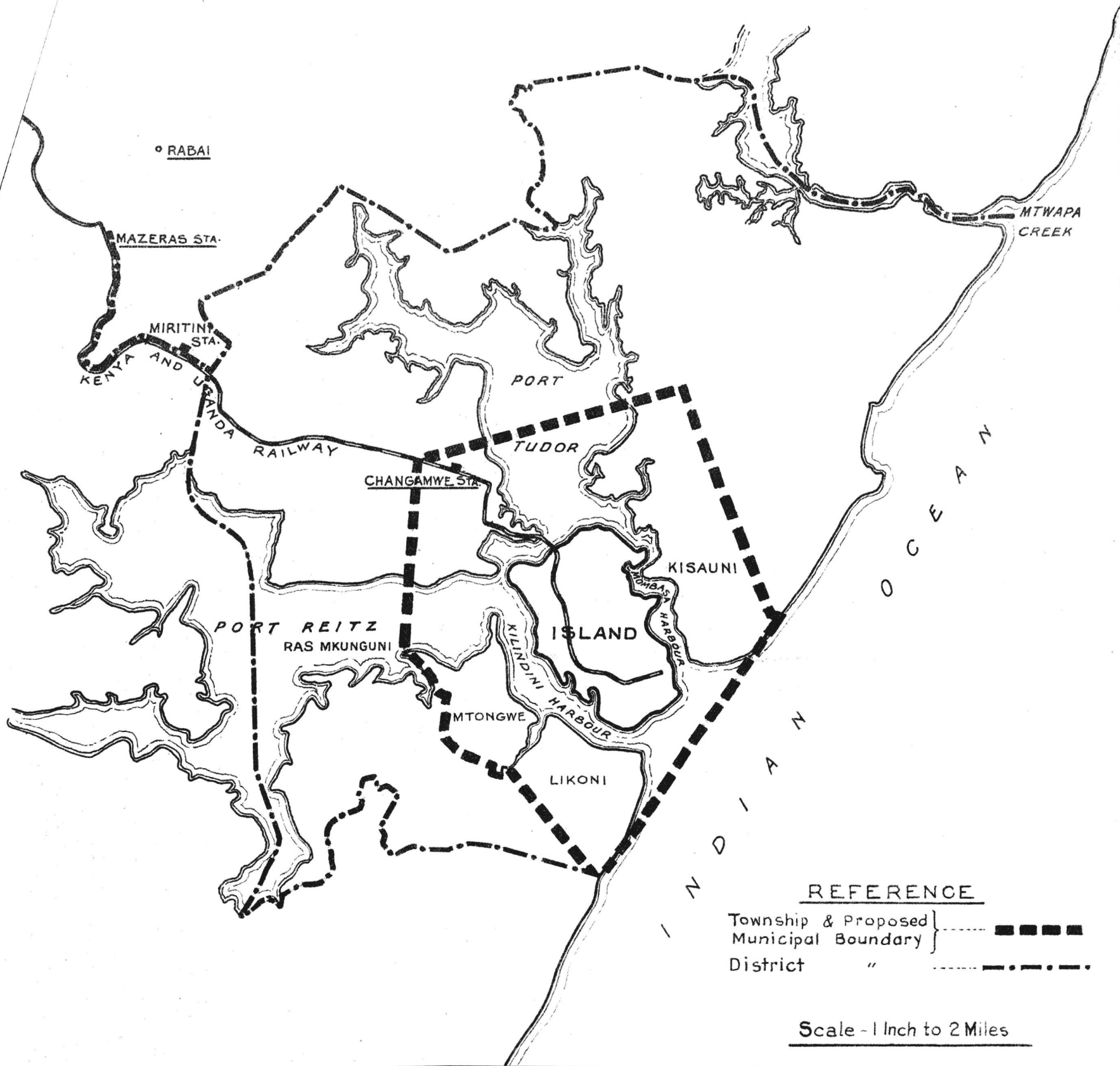
(c) It shall be the duty of the Commissioner for Local Government to forward such Report to the Governor in Council with such recommendations as the Standing Departmental Committee on Local Government desires to make thereon.

(N.B.—For recommendations concerning the appointments of a Standing Departmental Committee on Local Government, a Commissioner for Local Government and Local Government Inspector—see the Commission's Report on Central Organization.)

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# MOMBASA:— PROPOSED MUNICIPALITY.

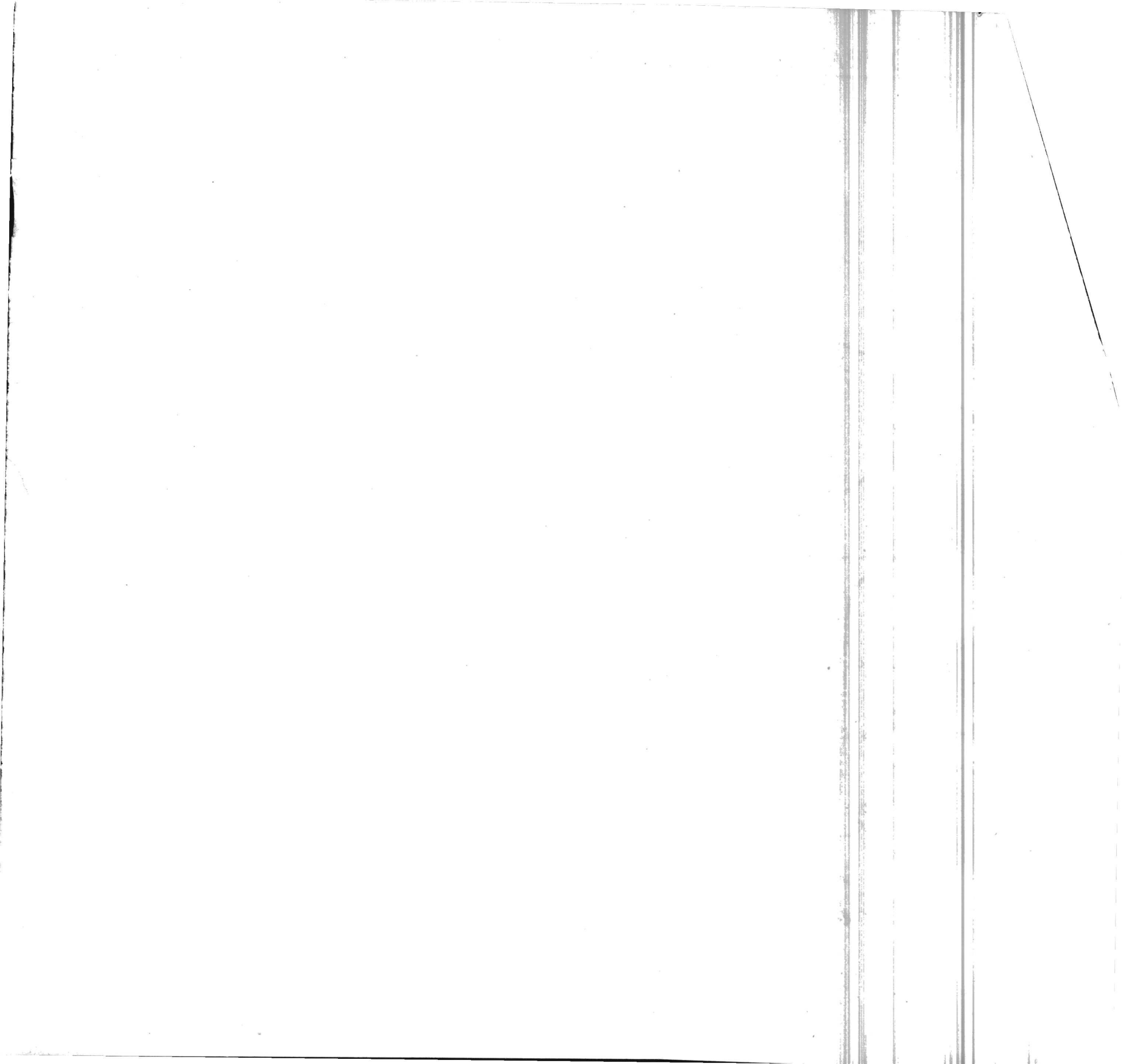
PLATE No 3



## REFERENCE

Township & Proposed  
Municipal Boundary } ———— ■■■■■  
District " } ———— ·····

Scale - 1 Inch to 2 Miles



## CHAPTER III.

## AREA OF JURISDICTION.

In dealing with the area of jurisdiction of the Municipal Board of Mombasa, three geographical units require consideration—the Island, the Township and the District of Mombasa.

*The Island of Mombasa*, 3,200 acres or five square miles in area, has been described in Chapter I.

*The Township of Mombasa* comprises the Island and a strip of mainland south, west and north of it. On September 7th, 1903, “the Island of Mombasa, a circle of two miles round Frere Town and English Point, and an area extending one mile inland between Ras Muaka Singe and Msunguni” was declared by H.M.’s Commissioner to be a township for the purposes of the Townships Ordinance. The vagueness in the description of these limits on the northern Mainland was found to be open to objection in 1920 when the development of a large area at Nyali for building sites was projected; a more exact definition of the Township boundaries was therefore published on October 31st, 1921, under Government Notice No. 149. The boundaries therein described have not since been changed and are shown on Plate 3. Roughly the line runs at the northward side from a point approximately two miles from the entrance to Mombasa Harbour straight and parallel in a north-westerly direction to the general direction of the harbour for a distance of four miles; thence in a straight line to a point on the Railway, one mile north-west of Changamwe Station; thence direct to Ras M’Kunguni in Port Reitz and thence following the landward boundaries of Mtongwe to the head of Likoni Creek and onwards in a straight line in a south-easterly direction to the sea at a point, which is a common point with the District boundary, approximately two-and-a-half miles to the south of Kilindini Harbour. The area of the Township is 18,500 acres. The Island accounts for 3,200 acres and 5,750 acres are water, viz., Kilindini and Mombasa Harbours, Port Reitz and Port Tudor. The mainland area is thus 9,550 acres and is divisible into 3,570 acres on the Mtongwe-Likoni Mainland area; 1,925 acres on the Changamwe Mainland area and 4,055 acres on the Kisauni-Nyali Mainland area. The exact population of the whole Township area of Mombasa was not recorded at the 1926 Census for the purposes of which Mombasa District was divided into Island and Mainland. It may, however, be estimated, that the residents in the Mainland portion of the Township number 16 Europeans, 46 Indians, 526 Arabs, 23 other Non-Natives, and 4,270 Natives, making the total population of the whole Township, *i.e.*, including the Island, 720 Europeans, 9,092 Indians, 5,000 Arabs, and 1,369 Others—total 16,181 Non-Natives and 22,770 Natives.

*The District of Mombasa*, including the Township of Mombasa, covers a land area of 51,840 acres, and a water area of 16,000 acres. It has a sea front of approximately 12 miles and extends along the Railway for 11 miles. Its land acreage, excluding the Township, is 39,090 acres. Prior to 1921 the District of Mombasa extended up the coast as far as Kiruitu—a distance of some 18 to 20 miles—embraced a considerable area of the Nyika Hinterland and, for administrative purposes, was part of the Seyyidie Province. In 1921, however, it was decided to remove from this district Native Reserve lands, to confine it to land radiating from the Island which is held on individual tenure, and to exclude it from that administrative Province. This reduced area was defined as the extra-Provincial District of Mombasa in Proclamation No. 54 of February 25th, 1924, issued under the Kenya Colony and Protectorate (Boundaries) Order in Council, 1921. Its boundaries are also shown on Plate 3.

The Non-Native population of the Mombasa District at the Census was 869 Europeans, 9,398 Indians, 5,777 Arabs and 1,387 Others—total, 17,431. Persons aboard a ship in Kilindini Harbour on the Census day, viz., 149 Europeans, 301 Indians, and 10 Others, were included in the Census Returns and should be deducted to obtain the permanent Non-Native population, which, therefore, is 720 Europeans, 9,097 Indians, 5,777 Arabs, and 1,377 Others. After deducting the Township population it is seen that the extra-Township Non-Native residents in the District number no Europeans, 5 Indians, 777 Arabs and 8 Others. The Resident Commissioner's estimate of the Native population of the District, excluding the Township, is approximately, 2,900 souls.

2. At the present time the Mombasa District Committee advises the Resident Commissioner on matters of general interest arising in the Mombasa *District*; the rules passed under the Townships Ordinance, Chapter 82, apply only to the *Township* of Mombasa; while the Mombasa Town Planning Authority was appointed for the *Island* of Mombasa.

There was a consensus of opinion amongst the witnesses who appeared before us that, ultimately at least, the Township of Mombasa as at present defined must become the area of the new local body's jurisdiction, but views differed in regard to the area which should immediately come under that body's control. The District Committee in their Memorandum stated that "The present area of jurisdiction which should be accorded to the Local Authority should, in their opinion, be the existing Township boundary. They conceive that, in the somewhat remote future, it will probably be necessary to extend their limits to comprise the whole area of the present Mombasa District, but are emphatically of the opinion that the Township boundary should suffice for a number of years."

The Medical Officer of Health called attention to the growth of Mombasa in size and importance during the last few years, and stated that the increase in population and development had been very rapid. He dealt as follows with the question of area :—" To-day, in searching for available land to solve some of the problems existing on the Island, it is necessary to go to the Mainland to find what is required even though no bridges exist and communications are bad. A not inconsiderable population who work daily in the Island now live on the Mainland and there are growing up there somewhat congested areas, unplanned, unsanitated, and developing according to the whim and fancy of each landowner. The Island is very limited in size and more and more of it is being used up for business purposes, lessening the land available for residence. It does not require much foresight to-day to appreciate that Mombasa is bound to grow in size and importance. It can only extend by spreading on to the Mainland. Bridges are necessary to-day and must soon be provided. The provision of bridges will make the exodus to the Mainland easier and hence more rapid. All cities growing in size, that have appreciated the value of controlling the development on the open areas around them, are now thankful that they acted with foresight. It would be a very great pity if Mombasa did not act with similar wisdom. The lesson of the Old Town is with us to-day ; can we afford to have it repeated a few times over on the Mainland ? It is suggested that in considering the area of jurisdiction of the local authority a wide outlook be taken." The Director of Land Surveys considered, in the light of his experience in dealing with the Town Planning of the Island, that it was of importance that " people should look well ahead with regard to the development of the Mainland Area of the Mombasa Township so that if development takes place it will be on well-conceived lines."

Mr. Alan Crosman thought that the area on the Mainland included in the Township will be a residential area within a comparatively short time, and therefore should be included at once in the Board's area of jurisdiction.

On the other hand, the Chamber of Commerce, the Indian Associations, and the Indian witnesses generally, favoured the Island as the area of jurisdiction, on the grounds that there are no Municipal services rendered on the Mainland at present and little need for them ; that taxation could not be imposed on the Mainland unless services were rendered and that the Mainland population was very small and would not increase to any considerable extent, at least until more convenient modes of access were provided ; and that the Island offered large areas for development and had so many problems requiring settlement as to monopolize the attention and energies of a new created body for a long time.

No witnesses thought, however, that the area of jurisdiction could be restricted to the Island indefinitely; they all recognised that extension to include the Township must come in time but preferred to defer extension until it became unavoidable. One witness—an Indian—pressed for the District of Mombasa as the area for the new local body for the reasons that in his view the population will soon have to shift to the Mainland, and that provision there is essential, as also adequate control of road works.

The control of Mainland development had very shortly prior to the appointment of this Commission been under consideration locally, but a suggestion that the Township boundaries be made co-terminous with those of the District was not favoured by the unofficial members of the District Committee, on the ground that such extension would imply an obligation to supply direct services which the local Authority would not be in a position to afford.

3. So far as statistics of land and population afford an index, development on the Mainland is not conspicuous. In the Township area of 9,550 acres there are, as we have stated, only approximately 16 Europeans, 69 Asiatics and other Non-Natives, 526 Arabs and 4,270 Natives. Of the Non-European population two-thirds are congregated in the hamlet of Changamwe, and most of the remaining one-third live in the hamlet of Kisauni; the southern Mainland area of Likoni-Mtongwe has only 9 Europeans, 3 Indians and 50 Arab residents. The great bulk of the land is occupied only by coconut trees.

The Island, however, cannot be indifferent to public health conditions on the Mainland within its easy reach. We were informed that the inhabitants of Kisauni and Changamwe are subject to no sort of public health control or inspection; that the Health Department staff is not large enough to permit of work off the Island, and, further, that there is no scheme on which they can work. Unhealthy conditions in these areas obviously constitute a menace to the Island, since the residents are in constant and almost daily communication with the Island. Again, the desirability of removing to the Mainland cattle sheds, dairies, slaughter-houses and destructor was represented to us. The Medical Officer of Health stated that the dairies are getting into congested areas, that there is not much room for ventilation, and no room for the grazing of cattle on the Island; that the present slaughter-house is unsatisfactory—a temporary building being used until future conditions and requirements become more certain; that the destructor is in a congested part of the Island and should be removed to the Mainland; and that the Mainland should be looked to for the future accommodation of the African population, especially the casual labourer. He felt, however, that all these improvements must await the provision of better communications.

4. If this area is not brought within the jurisdiction of the Board, it must be left, with the rest of the Mombasa District, to the attention of a Local Authority under the Public Health Ordinance, Chapter 124, consisting of the District Commissioner and Medical Officer. It is most improbable that the Director of Medical and Sanitary Services would be able to post a separate Medical Officer of Health for duty in this and the other Districts of the Coast Province, and, although the Medical Officer of Health of the Municipal area—should that area not extend beyond the Island—would no doubt be charged with supervision of public health in the Mainland portion of the Township, the probable result would be that, through lack of staff, no control would be exercised and the present unsatisfactory conditions would continue unimproved.

This factor of staff inadequacy has also to be faced in the matter of building supervision on the Mainland if it is not incorporated in the Board's area. It is true that building regulations under the Townships Ordinance apply to the Mainland as to the Island portion of the Township, but there is no prospect of the Government being able to provide a separate staff for the control of building activities on the Mainland, and it will be difficult for the staff of the Municipal Engineering Department of the Board to devote attention to extra-Municipal needs. We have also to consider the development of the Mainland for residential purposes. The figures we have quoted do not indicate rapidity of development, more especially when the embargo for nine years on building expansion in the Island is borne in mind. There is, however, the common inclination of the wealthier residents to escape from the confined spaces of a small Island and, if the causeway from Makupa to the Mainland and the bridge connecting Nyali with the Island are built, there is little doubt that development in the Mainland will progress. This is a contingency which must not be forgotten.

5. All these considerations lead us to recommend the Township as the area of the Board's jurisdiction. Plate 3 shows the present District boundary, the Island and the proposed Municipal area.

We consider, however, that provision should be made in the law constituting municipal authorities: (1) That the Mombasa Municipal Board should have no power of imposing Taxation on the Mainland portion of its area until it has obtained the specific sanction of the Governor in Council; (2) That, if and when Taxation is imposed, the Board should be empowered to levy Rates in the Mainland portion of its area at a lower percentage or amount in the £ than in the Island—such percentage or amount to be fixed with due regard to the special circumstances affecting the degree of benefit received by the Mainland portion of the area from Municipal Expenditure. We make this recommendation in regard to differential rating in this instance only in view of the special geographical features of the proposed Mombasa

Municipal area. For such services in the way of sanitary supervision as can be rendered forthwith, a certain amount of revenue will be recoverable in licence fees and fees for the passing of building plans. It is apposite at this point to refer to the demand expressed in evidence before us that the control of Ferries from the Island to Kisauni, Makupa and Likoni, should be transferred to the Local Body, on the ground that they form an integral part in the communications of the Township. There are no insuperable difficulties in such a transfer, and the control of Ferries by a Local Authority in a municipal area which includes both Island and Mainland is a natural function of the Municipal Authority. We propose that power to establish and maintain Ferries should be included amongst the powers which a Municipal Authority may exercise with the sanction of the Governor. Should the Mombasa Municipal Board wish to exercise this power, the terms on which it takes over the existing Ferries will, of course, be a matter for negotiation.

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## CHAPTER IV.

## FINANCIAL PROVISIONS.

## PART I.—PRESENT POSITION.

No separate accounts have been kept for the purpose of recording transactions in connection with local government. The administration of local services has been carried out by different Government Departments and the figures of revenue and expenditure have, therefore, been obtained from several different sources, including the Resident Commissioner's Office, the Public Works Department, and the Department of the Medical Officer of Health. Owing to the nature of the Government system of accounting, the figures obtained must, as a record of local government transactions, be regarded as approximate.

2. Mr. E. V. Shilton has prepared certain statements for us from information supplied by the Departments concerned—*vide* Appendix II.

Statement A deals with the present position and shows:—

*Column 1.* Actual expenditure for the financial year 1925, which could be identified as direct expenditure for the purposes of local government, excluding the cost of administration by Government Departments other than salaries of officers wholly employed on municipal duties.

*Column 2.* Expenditure as shown in column 1, to which has been added the estimated cost of administration charges incurred by the Government (exclusive of Medical Officer of Health and staff).

*Column 3.* Actual revenue collected for the financial year 1925 for municipal purposes.

*Column 4.* Revenue as shown in column 3, to which has been added the estimated value of Sanitation Services rendered to Government.

3. The present financial position, excluding water supply, may be summarized as follows:—

(a) The total annual expenditure, excluding the cost of Public Health Administration and inspection, and capital charges on buildings and plant used for municipal purposes, is approximately £18,760.

(b) The annual contributions of the public towards municipal expenditure are approximately as follows:—

Payments for services rendered .. .. .	£5,414
Trade, Vehicle and General Licences, chargeable under Township Rules .. .. .	1,144
Assessment Rates .. .. .	3,453

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£10,011

(c) The annual contribution of the Government towards municipal expenditure is approximately £8,749.

(d) Liabilities have been incurred in connection with loans for improvement schemes which it is estimated will, when the capital expenditure is complete, involve loan charges of 6·5 per cent. on £230,000, an annual sum of £14,950. Of this amount it is anticipated that £7,150 per annum will have to be met almost immediately, and the annual sum payable will increase year by year until the total is reached.

4. *Water Supply*.—The following information in connection with the water supply undertaking has been furnished by the Public Works Department :—

(1) The Capital outlay has been met by the Government

(a) From loan funds .. .. .	£90,000
(b) From revenue funds .. .. .	35,902
	£125,902

The Executive Engineer, Public Works Department, Mombasa, stated that a sum of £6,934 which was expended on renewals, necessitated by flood damage, is included in item (b) and that it is not considered that this expenditure permanently benefited the system.

(2) The Trading Account for the year 1925 may be summarized as follows :—

*Expenditure—*

General maintenance and administration .. .. .	£6,505
Interest on loan of £90,000 at 6·6 per cent. .. .. .	5,940
Interest on capital provided from revenue at 6·6 per cent. (calculated on a sum of £32,560) .. .. .	2,149
Total Expenditure .. .. .	14,594
Excess Revenue for year .. .. .	7,171
	£21,765

*Revenue—*

Sales to Consumers, Meter Rents and sundry receipts .. .. .	£21,765
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These figures do not include any allowance for the renewal of wasting assets or any contribution on account of redemption of debt. The Executive Engineer, Public Works Department, Mombasa, informed us that it has not been possible to make a careful and detailed inspection of the assets of the scheme with a view to ascertaining their present value. The existing liability for

the renewal of assets cannot, therefore, be given, but since 1925, the Government has set aside and invested two sums of £10,000 each on account of this liability.

Unusually rapid depreciation of the pipe line, and a steadily increasing demand for water, led to the further allocation of loan funds amounting to £100,000 for the purpose of constructing new Head Works and pipe line, calculated to give a daily flow of 1,100,000 gallons as against the present average of 600,000 gallons. This scheme would, it was anticipated, increase the present earning capacity of the undertaking by about 30 per cent. It has recently been found, however, that owing to further increased demands for water, the proposed augmentation of the supply would not be adequate for any length of time and the whole matter is being held up while further investigations are being made with a view to finding additional sources of supply.

The present tariff provides for differential rates as follows :—

Government Departments and Railway..	Shs. 2/50 per 1,000 gals. or flat rate. The Railway also receives supplies at Mile 11/6 for Shs. 1/50 per 1,000 gals. owing to the point of supply being nearer the source.
Commercial and residential .. ..	Shs. 3. per 1,000 gals. or flat rate.
Shipping .. .. .	Shs. 8. per 1,000 gals.
Kiosks .. .. .	Shs. 5. per 1,000 gals. (supplied in small quantities to natives and others).

5. *Town Planning and Improvement Schemes.*—The Town Planning Scheme involving a capital outlay of £180,000 and the Old Town Improvement Scheme involving a capital outlay of £50,000 have been referred to in Chapter I. When the whole of the capital outlay has been incurred a very large annual burden in loan charges on the amount expended, which will not be represented by any revenue producing asset, will have to be met. It will be seen from paragraph 7 of Chapter I. that both the District Committee and the Government have agreed to these loan charges being met from a rate on the unimproved value of land, including Crown Land, but we do not propose to deal with the financing of these schemes as a separate problem as we think that, in order to reach a proper understanding of the position, the liabilities they involve must be treated as part of the general problem of finance.

A considerable portion of the capital outlay involved, including the whole of that on the Old Town Improvement Scheme, will probably

have been incurred before the Municipal Board is constituted, but in connection with the Town Planning Scheme a large sum is provided for Road Construction and Improvement, and the expenditure of this money may be deferred and spread over a lengthy period. If the necessary loan moneys are obtained by the Board in instalments from time to time as the expenditure has to be met, the obligations to pay loan charges will be subject to a gradual increase, and the burden will be more easily carried. The Board will have many financial obligations to meet and we think it is very important that the loan charges on these schemes should not have to be borne any sooner than is actually necessary. It is, of course, realised that, should the Government raise the full amount of the loans in question before the expenditure has been completed, it will be difficult to relieve the Board of the charges thereon, and this, we think, provides a strong argument in favour of the creation of a local loans fund as described in the memorandum prepared for us by Mr. Shilton, which forms Appendix II to the Report on Central Organization.

6. *Rating.*—The system of rating in force in Mombasa, which is described in Chapter I, is now quite inadequate to meet the needs of the town. The rate was fixed under the “Street Cleaning and Lighting Regulations” as far back as the year 1900 and the scale of charges has not since been altered. It is assessed on the annual rental value of occupied premises, and was originally imposed for specific and very limited purposes. From Statement A of Appendix II, it will be seen that the total sum produced in 1925 was £3,453. This amount represents the contribution on account of 5,142 occupied properties with a maximum annual charge, in respect of any one property, of Shs. 96. With the greatly increased needs of the town, it is clear that general municipal taxation of a much wider and more flexible character has become necessary.

#### PART II.—CHARGES FOR SERVICE AND RATING SYSTEM.

*Charges for Services.*—The policy of making direct charges for services rendered to individual persons and premises has been generally followed, but expenditure on account of the removal of refuse has hitherto been regarded as a charge against the township rate. The alteration of the system of rating which is proposed (*see* para. 3 below) will throw the burden of taxation to a large extent upon the unimproved value of land, and we think, therefore, that the cost of essentially private services such as that referred to should be borne by the persons who receive the benefits thereof.

The charges for removal of refuse should, we think, take the form of monthly fees, fixed according to the different classes of services rendered, in which case the tariff might embody classifications of services according to premises, viz., hotels, boarding houses, business premises, dwellings, etc. Such classifications could be sub-divided as

far as is necessary to provide for services of different value. For instance, business premises might be divided into items A, B and C, according to the nature of the business and the quantities of refuse normally requiring removal, and separate charges fixed for each. It would also be necessary to provide for special charges for removal of refuse which cannot be brought within any classification, and this could be done by fixing a price per cart load or other convenient unit.

2. *Recovery of Charges for Services and Rates.*—We think that charges for Conservancy and Refuse removal should be recoverable from the owners of the premises and that such charges in respect of a limited period should be secured upon the properties in respect of which the services are rendered, because :—

(a) The services are necessary for the protection of the health of the whole community, and the local authority cannot, therefore, refuse to provide such services if payment is not made ;

(b) If the obligation to pay such charges is placed entirely upon occupiers of premises, recovery is frequently difficult and bad debts are inevitably incurred ;

(c) When bad debts are incurred to any extent the cost of the services to the rest of the community is increased.

It is, however, necessary, in our opinion, that the Board should also have power to take proceedings for the recovery of such charges from occupiers of premises, in order that difficulty may be avoided in the case of absentee owners. We propose, therefore, that the Board should be empowered to proceed jointly and severally against owners and occupiers, provided that occupiers should be entitled to deduct from any rent or other amount due by them to the owners, any portion of such conservancy and refuse removal charges paid by them which the owners could not properly have required them to pay under the terms of their occupation of the premises concerned.

We propose further that provision should be made in the law prohibiting the registration of any transfer of immovable property within the Municipality unless a certificate from an authorised municipal official, stating that all such charges have been paid for a period of three years preceding the date of application for transfer, is first produced to the registration officer.

The procedure for recovery of Assessment Rates is laid down in the draft Rating Ordinance hereafter referred to, but we think it is necessary that the registration of the transfer of immovable property should also be prohibited in the same manner where assessment rates have not been paid.

We append draft clauses embodying these suggestions

" A. "

## RECOVERY OF SANITARY FEES, ETC.

## DRAFT CLAUSE.

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

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

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

" B. "

## CLEARANCE CERTIFICATE.

## DRAFT CLAUSE.

No transfer for any premises within a municipality shall be passed or registered before any registration officer until a written statement signed and certified by the Town Clerk or other officer authorised thereto by the Board shall be produced to such registration officer, nor unless such statement shows :—

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

(b) That all charges (if any) for a period of three years immediately preceding the date of application for transfer due in respect of such premises on account of rates imposed under the "Local Authorities Rating Ordinance" or any amendment thereof, have been paid to the Board.

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

3. *Rating*.—The system of rating proposed provides for assessment on the capital values of land and improvements, and is fully set out in the draft Rating Ordinance in Chapter V; and Mr. E. V. Shilton has furnished us with a memorandum (*vide* Appendix III of Report on Nairobi and its environs) on the general question of rating in which are stated the main arguments for the system we propose. Briefly the system provides :—

(a) For the rating of separate interests in rateable property against the persons enjoying the benefits of ownership;

(b) For the imposition of rates on both land and improvements in proportions which may be fixed within certain limits by the local authority.

We do not propose in the body of this Report to deal at length with the general problem of rating, but we desire to explain our reasons for recommending, in the case of Mombasa, the combined rate on land and improvements rather than a rate imposed entirely on site values, or a rate on annual values, both of which were suggested to us.

(1) *Improvement Rate*.—The general reasons for imposing a rate on improvements as well as on land, when the system of assessment on capital values is adopted, are given in the Report of the Transvaal Local Government Commission of 1915 and are quoted in Chapter IV of this Commission's Report on Nairobi and its environs. We feel that these reasons generally apply to Mombasa, and that the first reason given, namely, "that the entire exemption of improvements is likely to result in excessive rates on land," is specially applicable. Land values in Mombasa are undoubtedly high, probably abnormally high owing to a large amount of land having been withheld from the market pending the carrying out of the Town Planning Scheme, and the imposition of rates upon vacant land which has not hitherto borne direct taxation might, unless kept at first within comparatively narrow limits, have the effect of destroying confidence by bringing about too sudden a fall in values, especially in view of the fact that there are a number of small plots held by Arab and Swahili owners of limited

resources. The amount in the pound, or percentage, payable on account of rates at the outset will in comparison with other countries be small, but the high values prevailing will render the contributions on account of individual properties in some cases considerable. We consider it is desirable therefore that some portion of the rates levied by the Board should be charged upon improvement values in order to avoid the evil effects which might be produced by the imposition of too high rates upon vacant land. A further reason for the imposition of an improvement rate is that, if the rates are levied entirely upon Site Values, a number of owners of Makuti Huts, who are not also the owners of the land on which the Huts are situated, will escape direct taxation. In view of these circumstances, we consider that the rates imposed by the Board in addition to the "original rate" on site values of one-half per cent. (required to be levied under the system proposed before any other rates are levied) should be obtained by rates of equal percentages upon both land and improvements.

(2) *Rental Value Rate*.—General reasons given in Appendix III of the Commission's Report on Nairobi and its environs against the system of rating on annual rental values are as follows:—

"(a) The real value of land is not taxed if the land is not put to the most beneficial use.

"(b) The rate cannot be divided between the owners of different interests, as for instance when property is held under leasehold title.

"(c) A rental value rate is a very heavy tax on occupied property unless it is combined with some other form of rate, and that involves the cost of separate valuations and additional labour in collection.

"(d) A rental value rate is based upon the annual revenue from land and improvements; if, therefore, a Site Value rate is also levied, the distribution of the rate between land and improvements cannot be regulated with the same certainty as if rates are levied on Capital Values."

We agree with these objections; and further, the expenditure on improvement schemes, the benefits of which will attach to land, could not, in our opinion, be equitably provided for by means of a rate on rental values which is only charged upon occupied property.

We do not think it is desirable that an entirely separate rate should be levied, as was suggested to us, for the purpose of meeting the loan charges on improvement schemes, as the incidence of any particular year's rates should, in our opinion, be considered as a whole; but we see no reason why any portion of a rate should not be regarded, for purposes of accounting, as having been imposed for a particular purpose

and, if the rates are properly apportioned between land and improvements, the loan charges on improvement schemes will always be more than covered by the portion of the rate levied upon site values.

In drafting the Rating Ordinance special provisions have been made for the numerous buildings known as Makuti Huts, the majority of which are not owned by the owners of the land on which they are situated. These provisions require that such buildings shall be rated as representing separate interests apart from the ownership of the land on which they are erected.

### PART III.—GOVERNMENT CONTRIBUTIONS.

*General Considerations.*—The question of the basis to be adopted for Government contributions to municipal expenditure requires to be examined in the light of the following considerations :—

(1) The position of Government as landowner and occupier (in its capacity as employer) of land and premises in a municipal area to whose premises and employees services have to be rendered, and whose property benefits in common with the property of private owners from municipal works and improvements, has first to be taken into account with a view to determining the Government's liability in these capacities in relation to the liability of private citizens in their capacities as residents, owners, and occupiers of premises.

(2) Particular works or services, responsibility for the execution of which should rest with the municipal authority (*e.g.*, construction and maintenance of main roads, and public health services), are obviously required not only for the benefit of the area concerned but also for the benefit of adjoining areas and of the country as a whole. Some plan has to be adopted for the purpose of apportioning on a fair basis the cost of such works or services between the property owner and resident in the municipal area, and the general tax-payer.

(3) It is also necessary to consider how far the resources of a municipality require to be supplemented, particularly in its early stages, by assistance from the Central Government, in order to enable the citizens to make a success of municipal government and to provide adequately for the development of the town, not only in their own interests, but also in the interests of the surrounding district and of the country generally. If, in order to secure a contribution from Government which will be sufficient from this point of view, it is found necessary to make special arrangements involving some addition to the amounts to be contributed by Government under the two previous heads, (*viz.* : (1) Government's contribution in its capacity as landowner and occupier of premises, and (2) its contribution towards particular works, the cost of which should be apportioned between the municipal area and the country as a whole), the basis adopted for any additional contribution should be such as to secure that the

Government contribution as a whole, while fairly assessed in relation to its liabilities, and sufficient to give the urban community the assistance which they require, is not used to relieve members of that community from contributing their fair share towards municipal expenditure, and is not so variable in amount as to introduce confusion into municipal finance, and deprive the municipal authority of the general financial responsibility which should rest upon it.

The subject of the Government's contribution can therefore best be dealt with by first considering the principles which should govern a determination of the Government's liability as landowner and occupier of premises, and the contribution which should be paid in discharge of such liability, and then dealing with the further claims which may arise under the other heads mentioned in the light of the figures available.

2. So far as concerns the Government's liability as owner and occupier of premises in municipal areas, no difficulty arises in the case of those municipal services for which direct charges are made; the cost of such services is, if the tariff is properly framed, distributed among the persons served in strict proportion to the benefits received, and it is clear that Government should normally be required to pay for services, for which direct charges are made, on the same basis as any other recipient of such services.

3. When, however, we come to the question of rating, we are no longer dealing with a charge which is based directly or solely on an apportionment of benefits received. How far rates levied are proportionate to benefits received, must depend on the system of rating adopted and on the character of municipal expenditure defrayed out of such rates. Adoption of the system of rating unimproved, or site, values of land is justified on the ground that this system not only has a beneficial effect upon development, but also that it affords the best means of securing that payment shall be in proportion to benefits received. It is recognised that expenditure on municipal improvements tends to enhance land values, not building values, and it is therefore held to be fair that the taxation required in order to pay for such improvements should be mainly, if not solely, based on land values (*vide* Appendix III of Report on Nairobi and its environs).

Crown Land receives benefits in the same way as other land from the construction of roads and the provision of other municipal improvements. If no contribution is made in respect of such land, an increased share of the cost of such improvements will inevitably have to be borne by other land owners. They will have to pay for the Government's share in the benefits of such improvements, as well as for their own share, and the existence within their municipal area of holdings of Crown Land which require the same provision of roads and other improvements as private estates, but are exempted from any

liability to contribute to the rates, would disturb the relation which should exist between the cost of services and improvements, and the value of the land affected and available to contribute towards meeting such cost. These arguments point clearly to the conclusion that, in so far as rating is based on site values, Government property, speaking generally, should pay on the same basis as private property.

4. Different considerations apply, however, to rates based on improvement values.

(1) An improvement rate, according to the principles already laid down, may fairly be used to supplement rates on the unimproved value of land, when sufficient revenue cannot be obtained from the latter without imposing too great a burden on land, but the imposition of an improvement rate involves some departure from the principle of payment in proportion to benefits received. In the case of ordinary ratepayers, improvement rates must be regarded as based rather on ability to pay than on benefits received; but the value of improvements made by Government on Crown Land can hardly be accepted as a suitable measure of the Government's "ability to pay."

(2) The establishment of Government offices or works and the erection of public buildings in any given area involve the expenditure of public money in that area which confers both direct and indirect benefits on the inhabitants. It is a commonplace that every town is eager to secure the establishment within its borders of Government administrative offices, and the erection of public buildings for such offices and for Court houses, post offices, schools, hospitals and other institutions. There is also a natural demand that Government buildings should be of a dignified and substantial character, so as to add to the attractions and importance of the town in which they are erected.

It is, therefore, in principle undesirable that, where a particular area is benefited by the expenditure of large sums of public money on the erection of public buildings, Government's contribution to the municipal revenue of that area should be automatically increased in proportion to the cost of the buildings erected. Where, however, other ratepayers pay on improvements as well as on land, it may be necessary, in order to prevent an undue share of the burden falling on the private property owner, that some corresponding contribution should be made by Government on a special basis, in recognition of the increased provision of roads and other services necessitated by the existence of Government establishments.

While the last-mentioned considerations are of general application, it is obvious that they apply with special force to a town which is the capital of a country, and the seat of Government, or to the principal Port.

## BASIS TO BE ADOPTED.

5. We now proceed to examine, in the light of the considerations above stated, the question of the basis to be adopted for Government contributions towards municipal expenditure in Mombasa, but it should be explained that, in this Chapter, all Crown interests in land and improvements, including property reserved for the Kenya and Uganda Railway and the Port Authority, are treated as a whole; and all Government contributions have been calculated on all such interests for which valuations have been provided. The position in regard to rating of property reserved for the use of the Railway and the Port is especially dealt with in Chapter VI.

We consider that substantial contributions from the Government towards Municipal revenues will be necessary for the following reasons :—

(a) The Government owns large areas of land within the Municipality which, if they were privately owned, would be rateable, and the general considerations in regard to the rating of Crown land, which have already been stated, apply to such land.

(b) The necessity for a considerable amount of the expenditure now being incurred on improvement schemes, and the obligations which will rest upon the Board to incur expenditure for the improvement of public health conditions and roads, have not been occasioned by normal circumstances but are due mainly to the age and special character of the town. The improvement of such conditions, which are not of recent origin, could not, in our opinion, be undertaken by the local authority without substantial financial assistance from the Government.

Of the different forms of Government contributions which have been considered by us, contributions on the basis of rateable values of land appear the most suitable, except in the case of contributions towards the cost of Main Trunk and Main District Roads. The advantages of such a form of contribution appear to us to be as follows :—

(a) The Government will not be called upon to contribute towards expenditure of the Board unless the public makes a proportionate contribution in the form of rates ;

(b) As Crown land is disposed of, the burden will be shifted from the State to private owners of land ;

(c) The contributions will be automatically regulated, which will prevent any uncertainty on the part of the Board as to the amount of revenue to be derived therefrom.

## THE CONTRIBUTION IN LIEU OF RATES.

We propose :—

(1) That the contributions of the Government shall be based upon the unimproved value of all interests in land held by the Crown, subject to exemptions on account of the following :—

(a) All land which would be exempt from taxation if privately owned ;

(b) Land used, or held in trust, for Municipal purposes ;

(c) Government House and grounds ;

(d) Land used for hospitals, educational purposes, rifle range, public parks, recreation grounds, veterinary quarantine areas.

(e) Railway lines ;

(f) Harbour works.

The question of exemptions under (e) and (f) are dealt with further in Chapter VI.

(2) That, where rates are levied upon the unimproved value of land, the Government shall contribute in all respects in the same manner as private owners of land, subject to the exemptions above mentioned and to a maximum of 2 per cent. on the total unimproved value of all Crown interests in land on which the contribution is calculated.

Where improvement rates are levied we find that the same method of calculating the contribution, as is proposed in the case of rates levied upon the unimproved value of land, is not advisable for general reasons already stated, and also because in Mombasa the value of improvements held by the Crown in proportion to the value of improvements held by the public is substantially less than the value of land held by the Crown in proportion to the value of land held by the public ; if therefore, any proportion of the rate is imposed upon improvements, and the Government contributes upon the value of improvements in the same manner as private owners, the total contribution payable will represent a smaller proportion of the total rate and contribution combined than would be the case if the whole of the rate was imposed on land ; there would, under such circumstances, be a strong temptation on the part of the Board to avoid rating improvements, no matter how desirable such a course might be for the purpose of obtaining an equitable distribution of the rate between private ratepayers. In order, therefore, that difficulties shall not be placed in the way of the Board if it considers an improvement rate desirable, we propose :—

(3) That the Government's contribution on account of improvement rates shall be calculated in the same proportion to the total amount of the improvement rate payable by the public as the Government's contribution on land bears to the total amount of the rate on land payable by the public. For instance, if the contribution of the public towards a rate on land is £10,000, and

the Government's contribution towards such is £5,000, the contribution of the Government towards any improvement rate imposed will be one-half of the contribution of the public towards such improvement rate. We propose, however, that the total contribution in lieu of rates payable by the Government, whether an improvement rate is levied or not, shall not exceed the amount which would be produced by a rate of 2 per cent. on the unimproved value of all Crown interests in land on which the contribution is calculated. We propose that the contributions in lieu of rates in respect of Crown property should be put on a statutory basis and a draft clause embodying our suggestions on this point is appended to Part VII of Chapter IV of the Report on Nairobi and its environs.

#### CONTRIBUTION ON ACCOUNT OF MAIN TRUNK AND MAIN DISTRICT ROADS.

We think the same principle should be followed in regard to Government contributions towards the cost of construction and maintenance of Main Trunk and Main District Roads and the same basis of contribution adopted as is recommended in the case of Nairobi, viz., a contribution of one-half of the cost based upon an agreed programme of work. The difficulty, however, in Mombasa, will be to decide, in the absence of road communications with the Mainland, which roads are used to any extent for through traffic. In the event of a causeway being constructed at Makupa, it is likely that the Makupa Road may become the Main Road to Nairobi, and this road should then, from the place where it enters the Municipality to some central point in the town, qualify for contribution. This question is, however, one for the future, and we desire merely to indicate the necessity for making grants on account of any roads provided by the local authority if such roads at any time become necessary for other than local traffic.

We desire, however, to recommend for special consideration the case of Kilindini Road, which connects the Town of Mombasa with Kilindini Harbour. We do not think this road can be classified as a Main Trunk or a Main District Road, but it differs in character from ordinary town streets in that it has to carry a large volume of traffic between the town and the port which is occasioned by persons and goods entering and leaving the Colony. It is, therefore, an expensive road to maintain, and we feel that the ratepayers of Mombasa will be placed at a disadvantage as compared with the ratepayers of inland towns if no Government grant is made in respect of any main road. We propose, therefore, that a grant of one-half of the cost incurred by the Board in respect of the Kilindini Road should be made, until such time as road communications are established between Mombasa and the Mainland, so as to link with other roads on the island, when the matter should be reconsidered.

## PART IV.—EFFECT OF PROPOSALS.

Statement B of Appendix II deals with the effect on the financial position if a local authority is created for Mombasa with municipal powers of a general character. The statement shows :—

COLUMN 1.—Estimated annual expenditure.

COLUMN 2.—Estimated annual revenue from services, etc., and approximate annual amount immediately required to be raised by means of Assessment Rates and Government contributions.

The probable financial position at the outset, as shown by that Statement, may be stated as follows :—

(a) The total annual expenditure, basing normal expenditure on the figures for 1925, and providing for loan charges on improvement schemes of £7,150, additional expenditure on roads and public works of £5,000, and General Charges (such as Election Expenses, compiling Valuation Roll, Audit of Accounts, etc.), of £2,500, but excluding public health administration and inspection, will amount to approximately £33,410.

(b) The total revenue based on actual receipts for 1925, but excluding rates, will amount to £6,358.

(c) The amount to be provided by Assessment Rates and Government contributions will be approximately £26,852.

(d) If a special charge is made for refuse removals, additional revenue of approximately £3,700 will be obtained, and the amount to be provided from Rates and Government contributions will be reduced to £23,152.

The future financial position will be affected by :—

(a) Normal increases or reductions in revenue and expenditure.

(b) New works and Services undertaken or extensions to present Services.

(c) Increased loan charges on improvement schemes.

(d) The transfer of the liability for the cost of Public Health administration and inspection from Government to the Board.

It is impossible to provide estimates in connection with items (a) and (b). The ultimate total liability in regard to item (c) is estimated at £14,950 per annum.

In connection with item (d) we propose in Chapter VII that Public Health administration should be taken over by the Board, subject to refund by the Government of one-half of the salaries and allowances of the Medical Officer of Health and qualified Sanitary Inspectors, and also one-half of all expenditure incurred by the Board in connection with outbreaks of infectious diseases within the municipal area. The annual cost of a Municipal Public Health department, according to information supplied by the Deputy Director of Sanitary

Services, should not exceed £4,000, after allowing for the proportionate refund from the Government. In considering the future financial position, additional expenditure can therefore be definitely counted upon to the extent of £7,800 for loan charges on improvement schemes and £4,000 for Public Health administration, a total of £11,800. It is safe to assume that, if no additional expenditure except that provided for in Statement B of Appendix II and the amount of £11,800 referred to above is incurred, the amount to be ultimately provided from Rates and Government contributions will be at least £35,000 per annum.

In the foregoing estimates no allowance has been made for capital and replacement charges on buildings and plant used for municipal purposes, or for any payment being made to the Government on account of the purchase of such assets.

*Rates, and Contributions in lieu of Rates.*—The following approximate valuations of rateable property in Mombasa have been provided by the Land and Survey Department :—

	Land.	Improve- ments.	Total.
	£	£	£
Crown Interests :			
Railway and Port area..	986,900	175,000	1,161,900
Outside Railway and Port area .. ..	621,750	100,000	721,750
	<hr/>	<hr/>	<hr/>
	1,608,650	275,000	1,883,650
Private interests .. ..	1,028,000	1,250,000	2,278,000
	<hr/>	<hr/>	<hr/>
	<u>£2,636,650</u>	<u>£1,525,000</u>	<u>£4,161,650</u>

These valuations include vacant Crown land, the capitalized value of Crown Rentals, property held by the Crown under leasehold title, and residential property owned by the Crown and occupied by officials, but do not include land and improvements used exclusively for the purposes of Government or of the Railway and Port authorities. The estimated rates and contributions given below will, therefore, be subject to some slight alteration. Rates based on the above valuations would be as follows :—

(1) In order to provide for the sum of £23,152, the annual amount which it is estimated will be immediately required on the establishment of a local authority :—

(a) Rate on the unimproved value of land of .675 per cent. or 13½ cents in the £ ;

(b) Rate on the value of improvements of .175 per cent. or 3 cents in the £.

These rates would produce a total sum of £23,406, which would be divided between the Government and the public in the following proportions :—

	Site Values.	Improve- ments.	Total.
	£	£	£
Contribution in lieu of of rates on Crown property .. ..	10,858	3,422	14,280
Public .. ..	6,939	2,187	9,126
	<u>£17,797</u>	<u>£5,609</u>	<u>£23,406</u>

These rates are approximately equal to a rate on Site Values of .875 per cent. or 17½ cents in the £.

(2) In order to provide for the sum of £35,000, the minimum amount which it is estimated will eventually be necessary :—

(a) Rate on the unimproved value of land of .875 per cent. or 17½ cents in the £.

(b) Rate on the value of improvements of .375 per cent. or 7½ cents in the £.

These rates would produce a total sum of £35,092, which would be divided between the Government and the Public in the following proportions :—

	Site Values.	Improve- ments.	Total.
	£	£	£
Contribution in lieu of rates on Crown Pro- perty .. ..	14,075	7,335	21,410
Public .. ..	8,995	4,687	13,682
	<u>£23,070</u>	<u>£12,022</u>	<u>£35,092</u>

The amount of taxation which will be necessary is contingent upon many factors, and the foregoing estimates must be regarded as indicating the probable financial effect of the creation of a responsible local authority if no factors, which are now unforeseen, affect the position.

Mombasa has many urgent needs, particularly in connection with improved health conditions and roads, and the undertaking on any considerable scale of new works, apart from those included in the Town Planning and Old Town Improvement Schemes, will of course entirely alter the position from the financial point of view. We feel, for reasons previously stated, that the Government's obligations in

connection with the town are very great and, if such an important and urgently necessary work as sewerage is found to be beyond the financial resources of the Board, there is good reason, in our opinion, why the Government should provide further financial assistance than is specifically recommended by us.

The liabilities which will have to be met by the Government under these proposals will compare as follows with existing obligations (including a share, on the basis of site values of Crown land, of the loan charges in connection with Town Planning and Old Town Improvement Schemes), after transfer of Public Health expenditure to the Board, and when the whole of the Capital Outlay has been met on Town Planning and Old Town Improvement Schemes:—

*Future liability of Government :*

Annual contribution in lieu of rates on Crown property (including Railway and Port) ..	<u>£21,410</u>
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*Existing obligations of Government :*

Annual deficiency between expenditure and revenue derived from Public .. approx.	£9,000
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Proportion of cost of Public Health Administration to be transferred to Board .. approx.	£4,000
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Contribution towards loan charges on improvement schemes, when total amount has been expended, on basis of Site Values Rate .. approx.	<u>£9,000</u>
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	<u>£22,000</u>
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It should be noted that our proposals in connection with Staff in Chapter X will involve further payment by the Government of contributions amounting to one-third of the salaries of the Town Clerk and the Municipal Engineer.

The supplementary proposals which follow will, if adopted, make very little difference to the permanent contributions of the Government.

PART V.—SUPPLEMENTARY PROPOSALS.

We think that the supplementary proposals made in Part VI of Chapter IV in the Commission's Report on Nairobi and its environs, should also apply in the case of Mombasa. The proposals and the reasons therefor are as follows:—

(1) *Motor Licences.*—In addition to the financial proposals already made, we think the following proposals in regard to Motor Licences should receive consideration. It has been suggested that the Municipal Board is entitled to receive the revenue derived by the Government from Motor Licences issued in Mombasa. In view,

however, of the importance of such a change, if generally applied for the benefit of all municipal authorities, in its effect on the revenue of the Colony, we do not desire to recommend that the whole of such revenue should be handed over to the Board. It is, however, difficult to resist the claim that motor taxation should, to some extent, benefit the local authorities, and we feel that, though the Motor Vehicles Tax may be looked upon by Government as part of the general revenue of the Colony, it has in the eyes of the public a direct relation to roads expenditure. A reasonable arrangement would, in our opinion, be :—

(a) That one-half of the Vehicle Licences, collected by the Government on account of Motor Vehicles belonging to persons having a residence or place of business within the Municipality where such vehicles are ordinarily housed or kept, should be paid to the Board, subject to the imposition by the Board of the additional tax referred to in (b) ;

(b) That power be given to the Board to impose a tax on such Motor Vehicles as are referred to in (a) of an amount equal to 50 per cent. of the Licences imposed under the Motor Traffic Ordinance.

An additional tax upon Motor Vehicles as a contribution by the public to roads expenditure within the Municipality can, we think, be justified for two reasons :—

(a) Present Motor Vehicle taxation is not high compared with that in many other countries ;

(b) Inhabitants of the Municipality have the regular use of better and more costly roads than users of Motor Vehicles in country districts, and it is therefore reasonable that they should be called upon to contribute towards roads expenditure at a higher rate.

The annual amount of revenue derived by the Government from Motor Licences registered in Mombasa in 1925 was £1,566, but what amount of revenue would accrue to the Board under the system proposed has not been ascertained.

(2) We think that, when responsibility for the administration of public health services is relinquished by the Government, the whole of the burden of the cost should not be imposed upon the Board immediately, but should be transferred by degrees. We, therefore, propose that an additional contribution should be made by Government in the form of a diminishing grant, to take effect from the date the Board is required to assume responsibility for Public Health Services ; that the amount payable for the first year should be a fixed sum not exceeding three-fourths of the net amount of health expenditure which will become a charge on municipal funds ; and that the grant should be payable for a limited number of years, subject to reduction each year of a proportionate amount, so that at the end of the period fixed the grant would entirely disappear.

PART VI.—FUTURE ENDOWMENT OF THE MUNICIPALITY  
WITH CROWN LAND.

The proposals made in this Chapter in regard to Government contributions represent our recommendations, but we do not think they should be regarded as providing a permanent settlement of the financial relations between the Government and the Board, so far as the proposed contribution in lieu of rates on Crown Land is concerned. The way should, we think, be left open for the eventual endowment of the Municipality with all Crown interests in land not used or reserved for public purposes, and we therefore consider that effect should be given to our proposals with regard to the contribution in lieu of rates for a limited period of not less than five years, after which the matter should be reconsidered, with the possibility of such endowment in view.

2. The policy of endowing a Municipality with the public land situate within its area, with the exception of such sites as are actually used for the purposes of the Central Government, or should be reserved so as to be available for such purposes in the future, is a policy for the eventual adoption of which a strong case can be made on general principles.

(1) The citizens of a town thus benefit from the values which their individual industry and their efforts as a community have had a large share in creating ;

(2) As a town grows in size and importance, and its needs in respect of public works and services become greater, the resources available for the purpose of meeting these needs are automatically increased by the enhancement in value of the municipal land on which new buildings are erected and over which new streets extend.

A natural balance is thus preserved between resources and expenditure. It is necessary, however, to note that in the case of a capital city, which is the seat of Government, as well as in the case of a town which is the principal port of a country, values are largely created by the expenditure of money raised from the general taxpayer. The question of endowing such towns with public lands may, therefore, have to be considered in rather a different light to the endowment of an ordinary commercial town, or a town which serves as the centre of a single administrative district. If the policy of endowment is eventually adopted in the case of either Nairobi or Mombasa, it might justify the partial exemption of Crown Land retained for public purposes from liability of rates in view of the extent to which Government expenditure will have enhanced the value, not only of the Crown Land actually handed over, but of property generally throughout the municipal area. Reference may be made in this connection to

the third Report of the Financial Relations Commission, Transvaal Colony, 1906, which contains a discussion of this question. An extract from the relevant paragraphs of this Report is appended :—

“ 52 . . . It is space value, coupled with the question of position, which usually establishes the startling contrasts which so often exist between the building and the agricultural values of land. Now this class of value is the direct product of the common business of the whole town. Wherever trade or manufactures thrive, offices, shops, and the homes of people employed in them, all begin to need more space. The town grows and the value of the land begins to rise. These values are the outcome of the common industry. They are the measure, less of the natural resources of the place, than of the use to which its inhabitants have put those resources. Their growth also closely corresponds to the need for increased Municipal improvement. Now let it be supposed that, while nature has provided two seaports on the same coast with advantages which are as nearly as possible equal, the merchants in one are more active and enterprising than the merchants in the other. Under these circumstances, trade will gravitate to the more energetic community, and its success will be reflected in a growth of the town and a rise in the values of private and public land. If the increased values of public land in the active community are used in the relief of the taxation of the whole country, the inhabitants of both towns benefit alike, and the idle community reaps where it has not sown. It is difficult, therefore, to resist the inference that the surface values in public land should be appropriate to the particular community which creates or enhances them.

“ 53. The foregoing argument relates to land values, in so far as they are the joint result of the separate efforts of its individual citizens. But they are often created or enhanced by the joint effort of the citizens in their corporate capacity. Where, as at Durban, the Town Council has used its tramways to create building values on Town Lands, the community which has found the money, done the work and taken the risk, is clearly entitled to the result of its enterprises. The argument applies with equal force where public erven are made accessible and habitable by the enterprise of the Local Authority, in building roads, supplying water, and establishing other municipal services.

“ 54. There is a third case, where local values are enhanced by the expenditure of national money, and to this kind of increment the Local Authority can lay no claim. It is impossible, however, in practice to separate values of this class from values which result from local activity, or to say exactly how far national expenditure, as opposed to local expenditure or enterprise, has been responsible for creating the increment. Some compensation on this account, however, should clearly be reserved to the State if effect is given to the arguments advanced above by transferring to Local Authorities the surface values of public land in Municipal areas.”

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CHAPTER V.—RATING LAW.

CHAPTER VI.—QUESTIONS AFFECTING THE RELATIONS WITH  
THE KENYA AND UGANDA RAILWAY AND WITH  
THE PORT AUTHORITY, MOMBASA.

CHAPTER VII.—PUBLIC HEALTH ADMINISTRATION.

CHAPTER VIII.—NATIVE AFFAIRS.

For these Chapters *see* Chapters V—VIII in the Report on Nairobi  
and its environs.



## CHAPTER IX.

## PROPOSED BASIS FOR ACQUISITION OF WATER SUPPLY UNDERTAKING.

The water scheme should, in our opinion, be taken over by the Board as it is essentially a Municipal undertaking and exists mainly for the purpose of supplying water within the Municipal area.

The following methods of fixing the terms for the transfer of the undertaking from the Government to the Board appear to us to require consideration :—

(1) Purchase on the basis of the unexhausted value of the assets of the scheme.

An estimate of the unexhausted value of the assets of the scheme could be obtained on the basis of the remaining periods of life of the individual assets in relation to their original cost.

We do not think, however, that this basis of calculating the value of the scheme should be adopted because the period of the redemption of the loan, from which the capital outlay has been met, is very much longer than the period of life of the bulk of the assets concerned. In fact, the first contribution to the Sinking Fund for redemption was only made in March, 1925, and the loan is redeemable over a maximum period of thirty-five years, while the useful life of certain of the assets of the scheme is almost at an end. If, therefore, the undertaking is purchased on the basis of the present value of the Assets and the purchase price is less, as it must be, than the original loan liability, future consumers will escape payment of a considerable portion of the loan charges which they ought to meet.

(2) Purchase on the basis of the commercial value of the undertaking as a going concern ; having regard to the existing tariff of charges and the obligations to incur a large additional outlay in the near future on new works and replacements.

The purchase price on this basis would depend on the profit earning capacity of the undertaking, and this would be very difficult to arrive at for two reasons.

In the first place, the depreciation which has taken place in the assets of the scheme has been abnormal and has never been estimated with any accuracy, with the result that the true trading results have not been ascertained. In the second place, it is essential, in order to maintain the existing supplies and to provide for increased needs in the future, that large additional outlay should be incurred, and the effect of this on the trading results could not be estimated without a very exhaustive investigation.

The trading account for 1925, on which all expenditure except redemption of capital and provision for renewals has been charged, shows a surplus of £7,171; the sinking fund contribution on the total capital outlay of £125,902 at 1·3 per cent., the annual rate payable on the £90,000 loan, would amount to £1,637; after charging this figure to the trading account the balance available for making provision on account of renewals of assets would be £5,534. Under normal circumstances the provisions for renewals on a scheme of this character should not exceed 3 per cent. of the total value of the assets, or a sum of £3,777, but, in view of the abnormally rapid depreciation which has taken place in this case, it is doubtful if the sum of £5,534 would be an adequate annual contribution for the purpose. It certainly would not be an adequate contribution having regard to the fact that no provision whatever had been made up to the end of 1925, nine years after the scheme had commenced to operate as a trading concern, and when the period of life of certain of the assets had almost come to an end. It is, therefore, clear that the purchase price the Board could reasonably be expected to pay for the undertaking on a commercial basis as a going concern would fall very far short of the present capital liability.

We do not, however, look upon a purely commercial basis as entirely satisfactory in the case of the transfer of a trading concern such as this from one public authority to another. The scheme was undertaken for the benefit of the local community and, if a local authority had been in existence from the commencement, the community would have been made to pay in one way or another for the benefits received.

(3) Purchase on the basis of the transfer of the existing assets and liabilities of the undertaking.

This basis we consider would be the most equitable in the case of the transfer to a local authority of an undertaking established by the Government, provided that such undertaking could be handed over in a sound financial condition.

This undertaking was not in a sound financial condition at 31st December, 1925, because no provision had been made for the renewal of Wasting Assets. The absence of such provision, would, in the event of a local authority assuming responsibility for all the liabilities of the undertaking, involve provision being made for necessary renewals either by increased charges to future consumers or by appropriation of general municipal revenues. We do not think it would be reasonable to expect the Board to follow either of these courses for the purpose of meeting losses which might have been avoided by timely revisions of the tariff of charges.

2. These various considerations lead us to the conclusion that the scheme should be taken over by the Board on the basis of the transfer of the existing capital liabilities, subject to the provision by the Government of an adequate reserve fund for the renewal of Assets. The proposed basis of transfer can only be dealt with in general terms, as the actual figures will depend upon the financial position at the date of transfer.

Our recommendations are :—

(a) That the Board should assume liability, from the date of transfer of the scheme, for the payment of loan charges on the whole of the capital outlay met by the Government ; with the possible exception of the amount of £6,934 referred to in paragraph 4 of Part I of Chapter IV which, it is stated, did not permanently benefit the system ; and that any value attaching to the source of supply or to land used for the purpose of the undertaking, apart from capital outlay incurred in connection therewith, should not be taken into account.

(b) That the assets of the scheme should be valued on the basis of their remaining periods of life in relation to original cost, and the amount of depreciation ascertained ; that the amount of depreciation should be provided by the Government in the form of a reserve fund for the renewal of assets and handed over to the Board.

(c) That the balance of surplus revenue shown by the trading accounts should be retained by the Government as it will be very much less than the amount the Government will be required to find for the renewals fund.

(d) That all outstanding revenue at the date of transfer of the scheme should be collected by the Board and paid to Government.

(e) That all liabilities, except liabilities on capital account existing at the date of the transfer of the scheme, should be met by the Government.

(f) That any stores and materials handed over by the Government should be paid for by the Board over a reasonable period.

3. This arrangement, we believe, would be fair and reasonable both to the Government and to the Municipal Board. It would not involve the former in any undue loss and would provide for the carrying of a legitimate share of the burden of capital charges and depreciation by future consumers. Though the actual amount of depreciation has not been ascertained, rough estimates have been prepared from which it appears that the amount to be provided by Government, if the transfer of the scheme is carried out on the lines suggested, will not be less than £60,000 or £70,000. This would be a very large sum for the Government to find immediately and it may be necessary to consider arrangements for the meeting of this liability other than the payment of the cash in a lump sum. A certain portion of the Capital outlay, which

amounted to £35,902 at 31st December, 1925, has been met by the Government from revenue, and this amount might, we think, be deducted from the cash payment to be made on account of renewals, and the Board's liability for this sum finally liquidated. This would leave the Board with an obligation to meet loan charges for the remainder of the loan period on £90,000, the amount of the existing loan, but would correspondingly reduce the amount of the renewals fund. It is not likely, however, in view of the proposal to carry out reconstruction of the scheme from further borrowing, that any very great demands will be made upon the renewals fund in the immediate future, and the reduction of the loan charges, which would also be brought about by the liquidation of a portion of the Capital liability, would enable the future contributions to the renewals fund to be increased.

4. The future of the undertaking depends so much on the proposed scheme of reconstruction and the additional liabilities, which will be involved in respect of loan charges and provision for renewals, that it would be idle at this stage to attempt any statement of the position in figures. The amount of the new capital outlay will, however, be considerable and there is undoubtedly a possibility that the present tariff of charges will have to be increased, but this will depend very largely upon the character of the assets acquired and the extent to which it will be necessary to provide for the renewal of such assets. Consideration of these questions will have to be deferred until the details of the scheme of reconstruction have been worked out and estimates of cost, etc., are available, but we consider, in view of the impending transfer, that the policy in connection with the development of the undertaking should not be settled without full consultation with the present District Committee, if the new local authority is not formed sufficiently early to deal with the matter.

5. *Tariff Charges.*—It will be observed from Part I of Chapter IV that preferential rates for the supply of water to the Government are provided for in the tariff of charges. While we agree that bulk supplies in large quantities should be charged for at lower prices, we do not think that, where water is delivered to individual consumers of small quantities such as Government Offices, any reduction below the rates charged to the public can be justified when the scheme becomes a Municipal undertaking.

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## CHAPTER X.

## STAFF AND PROCEDURE.

## STAFF.

It will be convenient to record the present Staff arrangements in Mombasa for the execution of Municipal works, before discussing what Staff provision we consider the Municipal Board should make for the effective administration of Municipal business.

Under the present administrative system, the *Resident Commissioner* is responsible for the collection of Municipal Revenue, the issue of licences under Township Rules, the inspection of building plans and the control of markets. He is assisted by a Town Clerk. This officer was formerly attached to his Staff as a Building Inspector, but was promoted to the office of Town Clerk in 1925, and has, as far as possible, since then combined the duties of Building Inspector and Town Clerk. In addition to purely municipal duties, the Resident Commissioner performs the usual duties of an Administrative Officer in charge of a District, and in the discharge of these is assisted by an Assistant Resident Commissioner, the Liwali of Mombasa, and other Arab officers.

The *Executive Engineer* of the Public Works Department has charge of all road works in Mombasa, and of the Mombasa Water Supply. He is also responsible for all road and bridge construction and maintenance, and for construction and maintenance of Government buildings throughout the Coast Province, and part of the Ukamba Province.

The *Medical Officer of Health* and the Resident Commissioner are the "Local Authority" at present for the purposes of the Public Health Ordinance, Chapter 124. That Ordinance confers certain special executive powers on the Medical Officer of Health, who also has powers under Township Rules as regards buildings, nuisances and entry on premises. Since 1920, the Medical Officer of Health has, in addition to his other duties, been in control of the Conservancy work on Mombasa Island. He has a Staff of Sanitary Inspectors—also Government servants—and is in charge of Public Health in Mombasa District as well as in the Township of Mombasa. He is also Port Health Officer.

The Town Plan of Mombasa and the Old Town Improvement Scheme were prepared by the *Survey Branch* of the Land Department. The *Survey of the Town Plan* is being carried out by private licensed surveyors under the Director of Land Surveys.

These are the present arrangements as regards Staff.

2. We will now consider the duties which the Municipal Board must undertake on assuming responsibility for the Municipal Administration of Mombasa, how they should be distributed, and what Staff the Board will require to carry them out satisfactorily.

(1) *Conservancy*.—It is clearly inappropriate that a Medical Officer of Health should have executive control of this service. He is primarily an adviser on health conditions, including the measures taken by the local authority itself for sanitation purposes, and, therefore, should not be responsible himself for the administration of this Service. The management of the Service should be placed in the charge of a Municipal Engineer's Department. The Service is at present small, and an increase in its scope is greatly to be desired.

(2) *Refuse Removal*.—This Service should likewise be in the charge of a Municipal Engineer.

(3) *Water Supply*.—We have discussed in Chapter IX the question of this Supply being taken over by the Municipality, but the administration of the Supply within the Municipal area should unquestionably be controlled by the Board through its Municipal Engineer's Department.

(4) *Building Development*.—As already noted, new constructional building has been held up in the major portion of the island pending the production of the Town Plan, and the work of building inspection has, therefore, been kept within a moderate compass, but it is not clear that effective steps are taken, after a building plan has been approved, to ensure that the building is erected in accordance with the plan or in the approved situation. As soon as the survey of the Town Plan is completed, some increase in building activities may be anticipated and a volume of work in connection with building plans, sub-divisional plans and drainage will result. The Municipal Engineer's Department should be responsible for building inspection.

(5) *Drainage Survey*.—A Drainage Plan of the Island was drawn up by a former Executive Engineer of the Public Works Department in 1917 and the Town Plan, when it was formally submitted to the Government in 1924, contained a communication from the then Executive Engineer to the Chairman of the Town Planning Authority forwarding "a plan showing the original drainage proposals superimposed on the revised Town Plan," and stating that "it would be possible to make the drainage scheme conform with the revised Town Plan, but the extent of the necessary alterations could only be ascertained by partial re-survey." It is clear, therefore, that a drainage survey is a matter of some urgency in view of the construction of new roads and the imminence of active building works. There is at present no Staff equipment adequate to deal with these activities.

(6) *Roads*.—The construction of new roads in conformity with the Town Plan and the maintenance of all roads will form one of the most important of the Board's duties.

3. It was realised by almost all the witnesses, who gave evidence in Mombasa, that the Mombasa Municipal Authority must eventually have its own staff of officials. There was, however, some doubt as to

when the Authority should begin to do so. The District Committee and the local Government officers suggested that executive work should continue to be performed by the Government Departments at present responsible for it, but that such Departments should in future act as agents for the Local Body—and that, if it was found necessary for them to employ special Staff in their capacity as agents, such Staff should be paid for by the Local Body, but should, for purposes of discipline and control, be under the relative Departmental Head. The representatives of the District Committee recognised that their proposal left them in an unsatisfactory position should estimates of expenditure be exceeded, or should the work be unsatisfactorily performed; and, further, that they could not expect a final voice in the selection or continuation in office of the particular Government officer posted by the relative Head of Department to the charge of the agency work.

The difficulties arising out of frequent changes of Government officers in the past were brought to our notice, but the lack of continuity which is entailed by such changes would not be obviated by the adoption of this proposed course.

It was clear to us that the Resident Commissioner and the District Committee, in making these suggestions, had in mind principally, if not entirely, executive engineering works. At the time of our enquiry at Mombasa, this work fell into two divisions,

- (a) Recurrent maintenance work on existing roads ;
- (b) New construction of roads as part of the recently approved

Town Plan.

The District Committee stated that a definite proposal for the utilisation of the Public Works Department as agents had been put up by them for consideration by Government. We observe, however, from the estimates which accompanied the proposal, that provision was made for an Assistant Engineer, a Clerk of Works, a Surveyor and Draughtsman, two Clerks and some menial Staff; and we understand that, if the proposal be approved by Government, the intention of the Executive Engineer, Mombasa, is to let construction work out in minor sub-contracts locally. Further, the estimate of the cost of Makupa Road construction does not include provision for tools and plant, for the purchase of which separate provision is made. It would, therefore, appear that the only difference between the Local Body employing its own executive Staff for road work and the proposed arrangement is that it will have the advantage of some supervision by the present Executive Engineer. Mr. Fairley, the present Executive Engineer, in his evidence, stated that his idea was that the Assistant Engineer, whom it is proposed to appoint, should, in addition to road work, make a start with the collection of data for drainage, survey and other municipal engineering works.

4. As the appointment of an Assistant Engineer was under consideration at the time by Government, and as the necessity for the appointment of a *Municipal Engineer* at Mombasa was a question which had been specifically referred to us for advice by Government, we considered the matter during our sittings at Mombasa, and adopted the following resolution, which was communicated to Government :—

“ That it will be desirable for any new Municipal body established at Mombasa to have its own Municipal Engineering Department to which should be entrusted, in addition to road and drainage work, the passing of sub-division and building plans, the inspection of buildings, and scavenging work.

“ That such a Department should have at its head a man who has had special training and experience in Municipal work elsewhere ; and that the appointment of an Assistant Engineer to the Public Works Department at Mombasa now contemplated should be made with a view to providing for the development of a Municipal Engineer's Department at an early date ; and that the man chosen for the appointment should be chosen with a view to his filling the post of Municipal Engineer when created.”

We consider that the intermediate stage suggested should not be prolonged and that the Municipal Engineer should be appointed at the earliest possible time.

5. The other Senior Staff appointment which we recommend is that of Town Clerk, Mombasa. In regard to the scope and importance of the Town Clerk in the Municipal organization, we would refer to the relative passage in Chapter X of the Report on Nairobi and its environs. We have already recommended that the Resident Commissioner, Mombasa, should at the outset be Chairman of the Mombasa Municipal Board. This appointment is designed to ensure that the Local Body will have at its command the best local advice on matters of general policy in its dealings with its Municipal affairs. The Resident Commissioner will have a much closer touch with the details of Municipal Administration than any unofficial Chairman could maintain ; but, at the same time, he cannot be expected to retain the same responsibilities for executive action as he has hitherto borne. Special difficulties of municipal administration in Mombasa render it most essential that the Municipal Board should be adequately served in the person of its chief official. We recommend, therefore, that an officer should be appointed at once who has had experience elsewhere as a Town Clerk, or in a Town Clerk's Department, with a view to his serving, as it were, his apprenticeship in local conditions while the Resident Commissioner is available as Chairman to guide his judgment.

6. We do not consider that the position in Mombasa and its Municipal accounts will warrant for some considerable time the appointment of an officer of the rank of *Town Treasurer*. The Town Clerk should be

able to deal with this branch of Municipal work with the assistance of a European Accountant.

7. *Medical Officer of Health.*—We have dealt at some length in Chapter VII with the question of the employment by a Municipal Body of its own Medical Officer of Health, and we do not propose to recapitulate those arguments. We propose that the Municipal Board should make the appointment as soon as possible.

8. For the same reasons as in the case of Nairobi, we propose that Government should bear one-third of the cost of the salaries of Town Clerk and Municipal Engineer at Mombasa; and should exercise the same rights as regards the appointment and dismissal of those officers.

9. PROCEDURE.

A set of model Standing Orders and Financial Regulations which have been prepared by Mr. E. V. Shilton are appended to our Report on Nairobi and its Environs. They are adapted from the Standing Orders and Financial Regulations in Force in the Transvaal, and are explained briefly in Notes which are also appended. We think they will provide a useful guide to Municipal bodies in creating their own systems of procedure and administration, particularly in connection with the working of the Committee System. A proper understanding of the Committee System is necessary for the efficient conduct of public business by local authorities.

We have already referred in Chapter II to the advantages of adopting the Committee System for the purpose of enabling the Municipal Board to conduct its work on satisfactory lines.

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ACKNOWLEDGMENT.

We desire to associate ourselves with the acknowledgments to those who gave evidence before us and assisted us with Memoranda and information, and with the tributes paid to the Staff of the Commission contained in the concluding paragraph of the Report on Central Organization.

All which we submit for Your Excellency's consideration.

RICHARD FEETHAM, *Chairman.*  
 W. C. HUGGARD, *Attorney-General.*  
 H. T. MARTIN, *Commissioner of Lands.*  
 T. AINSWORTH DICKSON, *Additional*  
*Member.*  
 J. B. PANDYA, *Additional Member.*  
 (Subject to Minority Report appended  
 hereto. J. B. PANDYA.)

W. M. LOGAN, *Secretary.*  
*February 7th, 1927.*

## MINORITY REPORT.

I regret I differ from other members of the Commission in some of the most important points embodied in this report. I have, therefore, to submit this minority report.

## MUNICIPAL CORPORATION OR INTERMEDIATE STAGE OF A BOARD.

In my opinion the time has now come when a Council with the full status of a Corporation, as at Nairobi, may be established at Mombasa. My reasons are as under :—

1. The suggested board is invested with all the powers of a Corporation, to raise revenue and incur expenditure ; and the proposed intermediate stage is only in respect of the composition of the Council and not in respect of its powers and duties.

2. In the Introductory Chapter of this report, para. 4, it is stated that "one of the first townships so proclaimed was the Island of Mombasa." Having regard to this fact and the importance the town has since obtained, being the gateway not only of Kenya but of Uganda also, Mombasa had a prior claim to full Municipal status. It appears to me that no strong reasons exist for denying this privilege to Mombasa.

3. As regards fitness of the residents for being invested with such municipal powers, in my opinion the population composed of different races, namely—Europeans, Indians, and Arabs, can co-operate in working together with responsibility, and in general advancement it does not differ from the population of Nairobi where municipal powers have been granted some time ago.

4. The evidence shows that the European community of 720 out of total non-native population of 16,972 demands powers to tax but requires the body to be nominated. The Indians and Arabs number 16,252 and the witnesses from these communities, with the exception of one or two, ask for a municipal corporation. The large majority of taxpayers are Indians and Arabs, and it appears to me that their demand is just and fair.

## COMMON VOTERS' ROLL.

This is a time-honoured controversy, and in view of the decision by the Imperial Government embodied in the White Paper 1923, this country has adopted communal franchise for election to Legislative Council. The Indian community did not accept the decision and did not elect their members on communal roll. Recently, however, the Indian community has accepted the communal franchise under protest only, in so far as legislative council elections are concerned. It is, however, felt that in principle the common franchise is much more desirable, and in my opinion a beginning should be made and a trial should be given to prove its success in municipal Government.

I think no better place than Mombasa, free as it is from extreme racial prejudice, could be found to recognise this principle. In view of the fact that harmonious relations are in existence in Mombasa between the different communities on account of the large majority of the non-native population being interested in commercial pursuits and being used to work in co-operation with each other, I am quite sure that a common roll based on a ward system, would work quite satisfactorily. It would be easy to arrange wards in such a way as to ensure, if considered necessary, the election of members of all communities even on the basis of a common roll. It would tend to cement friendship and encourage co-operation between different communities, which would not be the case when representatives are responsible to their different communities only, and would be rightly or wrongly expected to further the interests of the particular community they represent. In my opinion the result of a communal roll would be to hinder the development of co-operation.

#### ELECTION OR NOMINATION.

I find that the principle of election has been recognised partly, which is a step towards the right direction. In my opinion all members of such a body should be elected members, except of course any Government officials whom it is found necessary to include in it. In view, however, of the definite expression of opinion by many European witnesses against election, I suggest that the proper arrangement would be to leave aside a small number of seats, say about 4 in 19, to be filled by nomination, thus providing against the difficulty anticipated in getting the right type of members to serve. I further suggest that this right of nomination should be exercised in the spirit of a power reserved for giving adequate representation to minorities that would otherwise be not fully represented. The Government should not, of course, be definitely bound to select such nominated members from any particular community but should be left free to exercise their choice according to the circumstances arising from time to time.

*Chairman.*—In my opinion the Chairman of this body should be elected by members.

#### COMPOSITION OF COUNCIL.

I have now come to the most important and to the most controversial point of the report. I feel that the recommendations of the majority of the Commission as regards the composition of the Council, are retrograde, and the reasons advanced therefore have not convinced me. In my opinion the proposed constitution establishes a most dangerous principle of giving a majority to a class of the population who have very little landed interests, and who contribute relatively a small proportion of the revenue to the coffers of the Municipality. It establishes a principle of unfair racial discrimination even in municipal

affairs, and this principle is of such far-reaching importance that I feel it my duty to condemn it.

The proposed Council would have amongst 19 members, 13 Europeans including officials, 4 Indians, 1 Arab and 1 Goan. It is mentioned that the District Committee has been taken as a model, but even in the District Committee there are at present 7 Europeans, 4 Indians, 2 Arabs, with the Resident Commissioner as Chairman. Other Government officers act mostly in an advisory capacity, so that even under the District Committee the ratio is 8 Europeans, including Chairman, and 4 Indians. Whereas, the proposed Council, if constituted on the minimum basis, will have 13 Europeans and 4 Indians, which is a step backward.

Moreover, one important point is overlooked, namely, the District Committee is purely an advisory body and has no power to tax and control expenditure. The new body will have such powers.

I now propose to examine the reasons advanced by the majority of the Commission in making their recommendation as regards the composition of the Council, in such manner as to give a large majority of seats to Europeans. The reasons are mentioned in paras. 11 and 12 of Chapter II of the Report and may be summarized as under :—

1. The attitude of the European witnesses was that the European members should have a majority on the new municipal body, or at least that their members should be equal to that of all the members drawn from the other communities.
2. Arguments drawn from the general political circumstances of the Colony and Protectorate.
3. Large investments of capital by European companies or firms, particularly control in Banking and Shipping.
4. The main source of efficient members is to be found amongst the European members of the community.
5. The necessity for abandoning all "theoretical" bases of representation.

I will now proceed to consider *seriatim* the reasons aforesaid.

1. It would be found from a perusal of the evidence that, except one or two witnesses, the rest of the European witnesses have not put forward a claim for a majority on the Municipal body as stated. I quote a few extracts from the evidence of some important witnesses, whose statements are attached separately with this Report. These witnesses have apparently realised that such a claim would be insupportable.

2. I am of opinion that arguments drawn from political circumstances of the whole Colony are inapplicable to problems connected with municipal administration, and more especially at the Coast, which in its conditions differs materially from the rest of the country.

It would be a mistake to drag questions of municipal administration, where all races have a common interest, into the vortex of political disputes and such attempts would only react unfavourably on the proper administration of the town's affairs.

3. I do not agree that commercial interests as such should be entitled to special consideration, apart from the importance that should be given to them as ratepayers, and as an important element in population. The evidence showed that the European population is a floating one, and has relatively little permanent interests in the affairs of the town. It would, therefore, be contrary to all canons of elective representation that a small minority of such a nature should have the largest voice in municipal administration.

4. I am not in agreement with the proposition that the main source of recruitment of efficient members is the European section of the population. There are certainly sufficient number of capable and efficient persons amongst the non-Europeans of Mombasa who are fully qualified and willing to take up the burden of municipal work.

5. I cannot in any way agree that it is necessary in the peculiar condition of Mombasa, to abandon all the ordinary and recognised bases of representation, namely, population, landed interests, and contribution to revenue. The reason advanced is that, at a time when town planning and town improvement schemes are to be put into force, this step is necessary. To my mind this is exactly the reason why a general, if not a strict, adherence to these principles is absolutely essential. In the working out of these schemes the persons who would be most affected are those that own land in these areas, and the thickly congested population in certain areas of the town. Both these classes are non-Europeans and to exclude them from their due voice would be putting them at the mercy of persons who are not directly concerned in these schemes and who are not contributing proportionately towards the expenses of working such schemes.

There seems to be no reason why any heavy responsibility as suggested should be thrust on a few Europeans; when their own realisation of such responsibility does not go beyond the willingness to work only if nominated. In view of the fact that the non-native population is prepared to shoulder the burden itself, there appears to be no necessity for compelling the small number of Europeans to accept the burden that the Commission proposes to impose upon them.

Now I shall examine the point made by the majority of the Commission, on page 263, that "the constitution of the municipal authority must be so framed as to secure representation of all interests which are fairly entitled to a voice in the management of Mombasa affairs." I must at once say that as far as the Indian community is concerned the proposed representation is inadequate to safeguard their interests.

The following are the grounds on which the Indian community is entitled to a majority of seats on the municipal council.

1. They number 9,098 amongst a non-native population of 16,972, which works out to about 60 per cent.
2. They have considerable landed interests and as such are large contributors of revenue to municipal coffers.
3. The majority of Indians are literate in their own vernaculars, and an influential section is qualified and educated in the English language.
4. A majority of them are permanent residents, and are directly interested in the development of the township.
5. Being a commercial community, they would be ready to co-operate for the common good, and from past experience it could be expected that they would be helpful.

In support of the demand for adequate representation, the present constitution of Nairobi Council may be quoted. There are 7 Europeans, including officials, and 4 Indians and 1 Goan. The proportion of the landed interests of the Indian community in Mombasa far outweigh any such proportion in Nairobi. The demand for a majority of seats on the Council, therefore, by the Indian community is on very solid and unassailable grounds, and it is only fair that such a basis should be recognised.

*Representation of Uganda Railway and Port Advisory Board.*

In my opinion the proposed representation for the above is unnecessary. The Railway has no special interests in Municipal Council except sanitary and other matters affecting the residents in Railway Areas. These residents will have votes and will be able to get things remedied through their representatives.

The Port Authority also has no such special interest involved, and I have not been able to see any convincing arguments for such representation. It is proposed to give larger representation to the European community because of their shipping interests, and if such is the case, the shipping interests are included in the European representation. The additional Port interests therefore do not exist and do not require any special representation.

On the basis of my suggestion the composition of the Council of 19 members would be as under :—

- 1 official member nominated ;
- 10 Indian members elected.
- 3 European members elected,
- 1 Arab elected.
- 4 members to be nominated, one of which should generally be a Goan.

*Government Officials eligible for nomination.*

In my opinion this proposal is controversial and full of difficulties. When civil servants are controlled by Government under civil service regulations, it is difficult to see in which way they would serve a particular community in their private capacities. If they are supposed to represent the communities they belong to, it is possible that such communities may refuse to be represented by Government servants, and further, they, being in the service of the Government, cannot in many cases independently advocate the interests of their community. Further, nomination of Government servants on a body having powers to tax and incur expenditure is open to question, and a dangerous principle, and I am sure it is bound to result in difficulties.

In my opinion, therefore, the Government officers should only be eligible for membership in their official capacities and as nominees of the Government.

*Financial.*—If the composition of the Council remain as proposed by the majority Commission, I suggest that the power to levy taxes should be restricted to a four-fifths majority in the Council, in view of the fact that large portion of taxation shall have to be paid by non-Europeans, who have not an adequate voice on the Council.

*Staff Proposals.*—It is proposed that a Town Clerk and a Municipal Engineer should be appointed on approval of the Government and that in consideration 33 per cent. of their salaries should be paid by the Government. These officers cannot be dismissed and would be more or less in an independent capacity. This proposal is bound to lead to many difficulties in regard to the working of the municipal administration, as it is possible such an officer, being independent, may ignore the wishes of the Municipal Council and the results in working would be far from satisfactory. In my opinion, therefore, these officers should be in employment of the Municipal Council and subject to their control like the other Staff of the Municipality.

(Signed) J. B. PANDYA.

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EXTRACTS FROM EVIDENCE.

Mr. P. Barry presented the Memorandum on behalf of the District Committee. The Memorandum stated :—

“ It opposes at present any apportionment of seats amongst the various communities on any such basis as landed interests, population or other basis, and suggests that for the first few years at any rate, the whole Council should be nominated by Central Government in consultation with its local representative having due regard to the voting strength of the various communities.

“ The Committee agree that when the time comes for a choice of Councillors by election under a formal electoral system, probably the best basis of apportioning seats amongst the various communities will be on their respective voting strength.”

In replying to a question as to how he intended to arrive at voting strength, Mr. Barry said—*Evidence, page 14*—

“ The other evening we had this meeting and we were informed that the voting strength was arrived at by deducting from the number of Asiatics 60 per cent. as illiterate and from the Europeans and Asiatics another 5 per cent. for various reasons, which would then leave the representation at about—

- 3 Europeans,
- 3 Indians,
- 1 Arab,
- 1 outside member,

which would be a total of 8 which could be increased proportionately.

“ *Page 15.*—Personally I think that the Europeans should at least—I am speaking personally now—be equal to the representation of ANY OTHER PARTY because though they may not be numerous or have so much land, the amount of capital that they have employed in Mombasa in the Port, in the leading firms, and in other ways, is very large and far outweighs that of any other race, and I think it must be taken into consideration.

Mr. SIM (Member for Mombasa) *from Evidence, page 2*—

“ *Q.*—Would you take the proportion of each community which would be able to pass some educational test and nominate members in proportion? Have we no data as to what proportion would pass the educational test?

“ *A.*—I think such data does exist, probably the Resident Commissioner would be able to supply it.”

(NOTE.—*Mr. Sim referred to the proposal of representation on voting strength as explained by Mr. Barry.*)

Mr. WARREN WRIGHT (Member District Committee)—*page 4*—

“ *Q.*—Have you any suggestion as to details of numbers, representation and so on?

“ *A.*—No. On that subject I have not very clear ideas save that it should not be unwieldy. I should think that as far as nominated members of Europeans are concerned, subject of course to the present Government advisers—administrative and executive officers being attached to the Council in their advisory capacity, THREE would be sufficient.”

*Page 10*—

“ *Q.*—You said you have not considered the actual number of Council; on what basis would you distribute the seats? Have you considered that?

“ *A.*—I think for the present the numbers and the representation would be satisfactory, it has so far worked satisfactorily and would be a start—the present composition.

“ *Q.*—That would be an arbitrary distribution?

“ *A.*—I think that of the various schemes of elective representation on a communal basis, a ward system, and so on, the present basis works satisfactorily.

“ *Q.*—It is at present absolutely arbitrary?

“ *A.*—Absolutely.”

## CHAMBER OF COMMERCE.

"RESOLUTION 3.—That the Government in considering nomination under the foregoing resolution should keep in view the various interests of Mombasa, namely commercial, land owners, Railway, Port and other interests."

Mr. SIM (*President*), *page 5*—

"Q.—Have you worked out anything in greater detail as to this?"

"A.—We had in view the present composition of the District Committee which consists of 12 members."

Mr. PARKER, *page 3*.—Referring to the report of the Commission of 1919—

"It was suggested that this body of 9 members should be representative of different communities. If sufficient number of suitable candidates were available from the three communities they should be three from each."

Mr. JACK (*Deputy Registrar*), *page 6 of Memorandum*—

"As regards the distribution of Councillors to the various wards, I suggest that in a council of 12 the distribution be—

- 5 Europeans,
- 4 Indians,
- 2 Arabs,
- 1 Native."

Major ROBERTSON EUSTACE, M.L.C., *page 10*—

"Q.—On that basis how would you divide the representation of the Council?"

"A.—I should say about 4 Europeans, 2 Indians, and 2 Arabs.

"Q.—The officials would be in addition to 8 members, to that there would be 6 Europeans.

"A.—You might make it 3—, 3—, 2. I have never gone into it."

## APPENDIX I.

## LIST OF MEMORANDA RECEIVED AND WITNESSES HEARD.

## MEMORANDA BY :

## MOMBASA.

- Mr. T. AINSWORTH DICKSON, Resident Commissioner.  
 DISTRICT COMMITTEE OF MOMBASA.  
 Mr. R. S. NEHRA, Barrister-at-Law, M.L.C., F.R.S.A., Member of  
 Society of Comparative Legislation (Eng.).  
 Mr. G. A. DATOO, Indian Member of District Committee.  
 Mr. AHMED JAMAL, Indian Member of District Committee.  
 Mr. A. MORRISON, Barrister-at-Law.  
 PORT ADVISORY BOARD.  
 Dr. H. S. DE BOER, M.C., M.R.C.S. (Eng.), L.R.C.P. (Lond.),  
 D.P.H. (Camb.), D.T.M. & H. (Lond.), Medical Officer of  
 Health, Senior Sanitation Officer.  
 Dr. A. R. PATERSON, M.B., Ch.B. (Glasg.), D.P.H. (Camb.),  
 D.T.M. & H. (Camb.), Deputy Director of Sanitary Services.

## THE INDIAN ASSOCIATION.

## RESOLUTIONS PASSED BY CHAMBER OF COMMERCE.

## THE INDIAN NATIONAL ASSOCIATION.

## DIRECTOR OF LAND SURVEYS.

## EXECUTIVE ENGINEER, PUBLIC WORKS DEPARTMENT.

## INSPECTOR OF SCHOOLS, Mombasa.

## DISTRICT SURVEYOR, Mombasa.

## Mr. T. B. PATEL.

## Mr. S. R. DE FREITAS, President of Goan Community.

## Mr. M. M. JACK, Deputy Registrar, Supreme Court.

## Mr. ABDULLA KANJI.

## WITNESSES.

- Mr. PERCY BARRY, Member of and representing District Committee.  
 Mr. H. R. MONTGOMERY, Ag. Senior Commissioner of Coast Province.  
 SEYYID ALI BIN SALIM, Liwali of the Coast ; Member of Legislative  
 Council.  
 Mr. W. A. M. SIM, Member of Legislative Council for Mombasa.  
 SHEIKH HEMED BIN MAHOMED, Arab Member, Legislative Council.  
 Mr. R. S. NEHRA, M.L.C., F.R.S.A., Member Society of Comparative  
 Legislation (Eng.), Indian Member, Legislative Council.  
 Mr. A. MORRISON, Barrister-at-Law.  
 Mr. AHMED JAMAL, Member of District Committee.  
 Mr. PATEL DATOO, Member of District Committee.  
 Mr. WARREN WRIGHT, Member of District Committee.

- Mr. N. J. DESAI, Land Estate Agent.  
 Mr. ALAN CROSMAN.  
 Mr. W. A. M. SIM, }  
 Mr. W. G. REID, } Representing Mombasa Chamber of Commerce  
 Mr. G. PATEL, }
- Dr. A. R. PATERSON, M.B., Ch.B. (Glas.), D.P.H. (Camb.), D.T.M. & H. (Camb.), Deputy Director of Sanitary Services.
- Mr. F. A. JIVANJEE }  
 Mr. A. H. KADERBHOY, } Representing Indian Association.  
 Mr. A. B. PATEL, }  
 Mr. T. B. PATEL. }
- Dr. H. S. DE BOER, M.C., M.R.C.S. (Eng.), L.R.C.P. (Lond.), D.P.H. (Camb.), D.T.M. & H. (Lond.), Senior Sanitation Officer, Medical Officer of Health, Mombasa.
- Mr. H. PARKER, Manager, Standard Bank of South Africa ; Member, Mombasa Municipal Commission, 1919.
- Mr. JOSHI, }  
 Dr. CHOKASHI, } Representing Indian National Association.
- Mr. S. R. DE FREITAS, President of Goan Community.  
 Mr. P. H. CLARKE, Member of Inter-Colonial Railway Council.  
 Mr. W. M. LUNT, Representing Port Advisory Board.  
 Mr. G. WALSH, Commissioner of Customs.  
 Mr. A. G. BAKER, Director of Land Surveys.  
 Mr. J. A. C. BURKE, Barrister-at-Law.  
 Mr. MUNRO MURRAY JACK, Deputy Registrar, Supreme Court.  
 Mr. W. FAIRLEY, Assoc.M. Inst.C.E., Executive Engineer, Public Works Dept., Mombasa.  
 Major R. W. B. ROBERTSON EUSTACE, D.S.O., Member of Legislative Council for Coast.  
 Mr. H. W. FRUDD, Member of District Committee.  
 Mr. A. M. JIVANJEE.
-

APPENDIX II.

STATEMENT "A."

STATEMENT SHOWING APPROXIMATE REVENUE AND EXPENDITURE ON BASIS OF TRANSACTIONS  
DURING THE YEAR 1925.

EXPENDITURE.	1. Approximate direct charges for 1925 not including cost of Adminis- tration by Govt. Depts. (other than officers wholly employed on Municipal duties).	2. Estimated on basis of 1925 expenditure plus Adminis- tration charges incurred by Govt. Depts. (exclusive of public health Administra- tion and in- spection).	REVENUE.	3. Collections for 1925.	4. Collections plus value of services rendered to Government.
OFFICE AND GENERAL ADMINIS- TRATION :	£	£		£	£
Salaries and Allowances, Station- ery and Office Expenses ..	2,544	4,000		—	—
CONSERVANCY SERVICES :					
Salaries and Allowances and Office Expenses, and Health Department .. .. .	486	486		—	—

REFUSE REMOVAL AND STREET CLEANING :					
Wages, Stores and sundry charges	3,800	3,800			
REFUSE DESTROYER :					
Wages, Stores and sundry charges	790	790			
SANITATION (PAIL SERVICE) :			SANITATION—PAIL SERVICE FEES:		
Wages, Transport, etc. ..	1,850	1,850	Add approx. amount of £500 for Service to Govt. buildings not included in collections ..	1,394	1,894
CEMETERIES :			CEMETERIES :		
Wages and sundries .. ..	165	165	Fees, etc. .. .. .	24	24
MARKETS, SLAUGHTER HOUSE, ETC. :			MARKETS AND SLAUGHTER HOUSE :		
Wages, Maintenance of buildings and sundry charges .. ..	1,026	1,026	Fees and charges .. ..	3,171	3,171
POUND :			POUND :		
Wages .. .. .	36	36	Fees .. .. .	79	79
PUBLIC WORKS ADMINISTRATION :					
Engineers, Offices Expenses, etc. and use of Plant .. ..	—	724			
ROADS :			LICENCES (PUBLIC HEALTH) :		
Construction and Maintenance ..	4,830	4,830	Issued on account of business premises, etc., over which public health control is exercised ..	423	423
Carried forward .. ..	£15,527	£17,707		£5,091	£5,591

APPENDIX II, STATEMENT "A" (Continued).

EXPENDITURE.	1. Approximate direct charges for 1925 not including cost of Administration by Govt. Depts. (other than officers wholly employed on Municipal duties).	2. Estimated on basis of 1925 expenditure plus Administration charges incurred by Govt. Depts. (exclusive of public health Administration and inspection).	REVENUE.	3. Collections for 1925.	4. Collections plus value of services rendered to Government.
Brought forward .. ..	£ 15,527	£ 17,707	Brought forward ..	£ 5,091	£ 5,591
STREET LIGHTING : Purchase of Electric Current, Wages, etc. .. .. .	1,053	1,053	LICENCES (TRAFFIC AND DOG) : Vehicles (excluding motor vehicles) .. .. .	£335	
			Cycles .. .. .	293	
			Motor Drivers (vehicles plying for hire) .. ..	67	
			Dogs .. .. .	26	
			—	721	721
			SUNDRY RECEIPTS :		
			Building permits .. ..	164	
			Ngoma permits .. ..	82	
			—	246	246
			DIRECT TAXATION BY MEANS OF ASSESSMENT RATES :	6,058	6,558
			On rental values as now assessed		
			—actual receipts for 1925 ..	3,453	3,453

		TOTAL REVENUE on account of payments for services rendered and taxation contributed by public	9,511	10,011
		DEFICIENCY MET FROM GOVERNMENT FUNDS:		
		On approximate direct expenditure .. .. .	7,069	—
		On approximate direct expenditure including estimated administration costs borne by Government Depts., but excluding Public Health Administration and inspection .. .. .	—	8,749
		NOTE.—The total annual Rate on Rental values as now assessed would be £4,468, of which £1,068 represents minimum charges of 6s. ; and in the minimum charges are included amounts collected from natives ; (being one half of the Hut Tax of 12s. per annum) which have been treated as Township Rates.		
	<u>£16,580</u>	<u>£18,760</u>	<u>£16,580</u>	<u>£18,760</u>

Expenditure on Refuse Removal and Destruction and Street Cleaning amounted to £4,590. Of this sum it is estimated that approximately 80 per cent. represented the cost of private Services.

STATEMENT " B "

STATEMENT SHOWING PROBABLE ANNUAL REVENUE AND EXPENDITURE IF LOCAL AUTHORITY IS CONSTITUTED WITH A LARGE MEASURE OF FINANCIAL RESPONSIBILITY, AND APPROXIMATE AMOUNTS REQUIRED TO BE RAISED BY MEANS OF TAXATION AND GOVERNMENT SUBSIDIES.

EXPENDITURE.	1	REVENUE.	2
Approximate direct Expenditure for 1925 including Administration costs borne by Government Departments .. .. .	£  18,760	Total Revenue for 1925, excluding assessment rates, as per Statement " A " .. .. .	£  6,558
Expenditure for the following purposes not hitherto provided for, but which may become necessary if a local authority is constituted :— Elections of Council ; Valuations for rating purposes , Audit of Accounts ; Expenses in connection with Council and Committee meetings ; Insurances : Fire, Accident, etc. ; Legal Charges and Prosecutions under Municipal Regulations ; Travelling Expenses : Councillors and Officials ; Public Entertainment, including Allowance to Chairman of Board ; Contributions on account of Officials' Pensions ; Preparation and Publication of Bye-laws made by Council ; Infectious Diseases.			
ESTIMATED ANNUAL CHARGE .. ..	2,500		

Public Works.—Increased expenditure on road construction and maintenance, footpaths, kerbing and guttering, Storm Water Drainage, Parks and Recreation grounds, fire brigade and ambulance, buildings for Municipal purposes, etc.

ESTIMATED ANNUAL CHARGE.. .. 5,000

LOAN CHARGES ON IMPROVEMENT SCHEMES.

*Town Planning—*

If suggested amount of £60,000 is spent immediately, the annual amount required for interest and contribution to Sinking Fund at 6·5 per cent. will be.. .. 3,900

(For every additional amount of £10,000 expended a further annual charge of £650 will be incurred until the full sum of £180,000 has been disbursed, when the annual loan charges at 6·5 per cent. will amount to £11,700).

MOMBASA OLD TOWN.

The annual charges on the loan of £50,000 at 6·5 per cent. will amount to £3,250. Expenditure on this scheme is proceeding and loan charges on practically the whole sum will have to be met almost immediately.. .. 3,250

£33,410

Estimated annual amount to be raised by means of Assessment Rates from the Crown and public

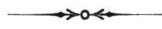
26,852

NOTE.—If a special charge is made to owners of premises for refuse removal to meet the estimated cost of that service—£3,700 per annum—the amount required to be raised by Assessment Rates would be £23,152 .

£33,410



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