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OF THE  
COLONY AND PROTECTORATE  
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Colony and Protectorate of Kenya.

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# Colony and Protectorate of Kenya.

GOVERNMENT NOTICE No. 403.

## NOTICE.

The following Bill is published for introduction into Legislative Council.

R. W. LAMBERT,  
*Clerk to Legislative Council.*

### **A Bill to Provide for Local Government in Rural Areas and for the Establishment of District Councils and other matters incidental thereto.**

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

1. This Ordinance may be cited as “ the Local Government (District Councils) Ordinance, 1928,” and shall come into operation upon such date as the Governor by notice in the Gazette shall appoint. Short title and commencement.

2. In this Ordinance, unless the context otherwise requires :— Interpretation.

“ Council ” means a District Council constituted under this Ordinance ;

“ Clerk ” means the person for the time being lawfully acting as Clerk to a District Council ;

“ Chairman ” means the Chairman of a District Council ;

“ District ” means the area placed under the jurisdiction of a District Council ;

“ District road ” means any road classified by the Governor as a district road under this Ordinance ;

“ Magistrate ” means a magistrate holding a subordinate court of the first or second class ;

“ Municipality ” means a Municipality as defined by the Local Government (Municipalities) Ordinance, 1928 ;

“ Municipal Council ” means a Municipal Council constituted under the Local Government (Municipalities) Ordinance, 1928 ;

“ Municipal Board ” means a Municipal Board constituted under the Local Government (Municipalities) Ordinance, 1928 ;

“ Public road ” means a public road as defined under the Public Travel and Access Roads Ordinance (Cap. 113) ;

“ Township ” means an area proclaimed as a Township under the Townships Ordinance (Cap. 82).

Division of  
Ordinance.

3. This Ordinance is divided into ten Parts relating to the following matters :—

- Part I. Establishment of Districts and Constitution of District Councils.
- „ II. Provisions relating to Elections.
- „ III. Appointment of Officers.
- „ IV. Meetings and Proceedings.
- „ V. Powers and duties.
- „ VI. Powers of taxation.
- „ VII. General Financial Provisions.
- „ VIII. Central Organization.
- „ IX. Special Powers of Governor.
- „ X. Legal Procedure and Miscellaneous.

#### PART I.

##### ESTABLISHMENT OF DISTRICTS AND CONSTITUTION OF DISTRICT COUNCILS.

Powers of  
Governor in  
regard to  
District  
Councils.

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

- (1) declare any area to be a district under the jurisdiction of a District Council and constitute for such area a District Council in accordance with section 6 of this Ordinance: Provided that no area which has been declared a Municipality or a Township shall be included in any district;
- (2) assign a name to any such district;
- (3) define the boundaries of any such district, and from time to time alter any such boundaries;
- (4) divide any district into wards and declare the number of elected members to be returned for each such ward;
- (5) from time to time alter the boundaries of any such ward and alter the number of elected members to be returned for each such ward;
- (6) with the consent of the District Council divide any district or ward into polling districts and from time to time increase or decrease the number of such polling districts or alter the boundaries thereof;
- (7) divide any district into not more than three District Road Areas, and from time to time alter the boundaries of any such District Road Areas: Provided that no such District Road Area shall include part only of a ward.

5. (1) Prior to the exercise of any of the several powers conferred by the last preceding section the Governor shall appoint the Commissioner for Local Government to enquire into and report as to the advisability of the exercise by the Governor of any of the powers so conferred and for the purpose of such enquiry the Governor may confer on the Commissioner for Local Government all or any of the powers vested in Commissioners under the Commissions of Inquiry Ordinance. *Cap. 25.*

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

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

(3) The report of the Commissioner for Local Government shall be submitted to the Governor through the Standing Committee established under section 125 of the Local Government (Municipalities) Ordinance, 1928, and such Committee shall record its recommendations thereon.

6. (1) There shall be constituted within every district established under section 4 of this Ordinance a District Council which shall consist of :—

Constitution of District Councils.

- (a) Such number of elected European members not being less than ten nor more than fifteen, as the Governor may, by proclamation, appoint, to be elected as hereinafter provided :

Provided that, if a District Council be constituted for the rural area of the administrative district now known as the Kisumu-Londiani District, there shall be, in addition, one elected Indian member of such District Council ;

- (b) One representative of any Municipal Council or Municipal Board, whose area is surrounded by the district to be nominated by the Governor with the approval of the Municipal Council or Board, as the case may be ;

- (c) One official member, being either :—

- (i) Where the district is included in a Province, the Senior Commissioner of such Province, or an administrative officer deputed by him :

Provided that such administrative officer shall be entitled to attend, in an advisory capacity and without a vote, meetings at which the Senior Commissioner is present.

- (ii) Where the district is extra-provincial, the Resident Commissioner.

- (2) The Governor may, at his discretion, nominate either one or two Indian members to any District Council.

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

7. Every District Council constituted by or under the provisions of this Ordinance, shall, under the name of " The District Council of .....," be each and severally a body corporate with perpetual succession and a

District Councils to be bodies corporate.

common seal (with power to alter such seal from time to time), and shall by such name be capable in law of suing and being sued, of purchasing, holding, and alienating land, and, generally, of doing and performing such acts and things as bodies corporate may by law do and perform, subject to the provisions of this Ordinance or any other law.

## PART II.

### PROVISIONS RELATING TO ELECTIONS.

#### *Registration of Voters.*

Preparation of  
voters' roll.

8. (1) A Council shall, as soon as possible after it has been duly constituted under the provisions of this Ordinance, and thereafter once in every three years, by a date to be fixed by the Commissioner for Local Government, cause a list to be made of all Europeans who are qualified to be enrolled as voters under this Ordinance. Such list shall be sub-divided into as many parts as there are wards of the district, and each such part shall show in alphabetical order the full name, residential address, occupation, and nature of the qualification of every voter qualified to vote within the ward to which such part refers :

Provided that if a District Council be constituted for the rural area of the administrative district now known as the Kisumu-Londiani District, such Council shall also cause a separate list to be made of all Indians who are qualified to be enrolled as voters.

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

(3) Whenever any ward has been divided into polling districts or any increase, decrease, alteration or adjustment of such districts has been made under sub-section (6) of section 4 of this Ordinance, the Council shall compile from the voters' roll of such ward a register of voters for each such polling district, consisting of the voters for the ward who are entitled to vote in such polling district.

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

Registering  
officer.

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

Qualifications  
of European  
voters.

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

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

(3) either—

- (a) owns rateable property within the district of the capital value of one hundred pounds; or
- (b) (i) has resided in the district for twelve months out of the twenty-four months preceding the date of application for enrolment, and either
  - (ii) has been in occupation for a like period of premises in the district of an annual value of thirty-six pounds, or
  - (iii) is, at the date aforesaid, and has been for six months out of the preceding twelve months, in receipt of earnings at the rate of not less than ten pounds per month.

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

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

Qualifications  
of Indian  
voters.

- (1) a British subject of Indian origin or descent or an Indian under the suzerainty or protection of His Majesty; and
- (2) of not less than twenty-one years of age; and
- (3) either—
  - (a) owns rateable property within the district of the capital value of one hundred pounds; or
  - (b) (i) has resided in the district for twelve months out of the twenty-four months preceding the date of application for enrolment, and either
    - (ii) has been in occupation for a like period of premises in the district of an annual value of twelve pounds, or
    - (iii) is, at the date aforesaid, and has been for six months out of the preceding twelve months, in receipt of earnings at the rate of not less than five pounds per month.

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

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

Disqualifica-  
tions of voters.

- (a) has been found by a competent court to be of unsound mind; or
- (b) has been convicted of a criminal offence, whether in the Colony or elsewhere, and has been sentenced to imprisonment for a term of not less than twelve months and has not received a free pardon: Provided that such disqualification shall cease two years after the date of the expiration of the sentence; or

- (c) has received relief from any public funds within twelve months prior to the date of his application to have his name entered upon the voters' roll; or
- (d) has been declared bankrupt or insolvent by a competent court, whether in the Colony or elsewhere, and has not received his discharge; or
- (e) is suffering from any disqualification provided by any enactment for the time being in force.

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

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

Notices of objection to list.

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

Determination of claims and objections.

**15.** (1) The magistrate having jurisdiction within the district shall hear and determine all claims and objections, and may enrol the names of any persons qualified which have been omitted from the appropriate voters' roll, and shall strike out the names of all persons not entitled to be enrolled:

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

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

Rolls to be in force until new rolls prepared.

**16.** Subject to the provisions of the next succeeding section the voters' rolls when so settled and amended shall be the voters' rolls for the district until the next voters' rolls shall in like manner be completed; and such voters' rolls shall be deemed to be conclusive and the only proof of the right of every person enrolled therein to vote at the election of members of the Council.

Provisions for addition of names to voters' rolls.

**17.** Any person who is not on the appropriate voters' roll in force for the time being in a district may at any time apply to the registering officer to be enrolled as a voter, and the registering officer upon being satisfied that such person is qualified under this Ordinance to be so enrolled shall cause the name of such person to be placed on the voters' roll. If the registering officer shall refuse any application under this section the applicant may appeal to the magistrate having jurisdiction within the district, and the application shall be disposed of in the manner provided by section 15 of this Ordinance.

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

Right of public to inspect voters' rolls.

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

Penalty for false statements.

#### *Elections.*

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

Holding of first elections, and term of office.

(2) The members so elected shall be elected for a term of three years :

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

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

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

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

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

**22.** (1) Subject to any of the disqualifications mentioned in sub-section (2) of this section any person who is and who is entitled to be enrolled as a voter in any district shall be eligible for election as a member of the Council of such district.

Qualifications of candidates.

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

- (a) is not a British subject; or
- (b) cannot read, write and speak the English language; or
- (c) is in the employment of, or holds any office or place of profit under or in the gift of, the Council; or



(d) has been convicted of a criminal offence, whether in the Colony or elsewhere, and has been sentenced to imprisonment for a term of not less than six months and has not received a free pardon: Provided that the Governor may by order in any particular case remove such disqualification; or

(e) has received relief from any public funds within twelve months prior to the date of his nomination as a candidate for election.

Casual  
vacancies.

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

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

Circumstances  
in which  
councillors  
and members  
*ipso facto*  
vacate office.

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

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

Returning  
officer.

**25.** The Clerk or such other person as the Council may, with the approval of the Commissioner for Local Government, appoint shall be the returning officer at every election held under this Ordinance.

Notice of  
election.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Death of  
candidate  
before the  
poll taken.

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

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

Provisions as  
to voting.

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

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

Power to make  
rules.

**32.** The Governor may from time to time make rules for all or any of the following purposes :—

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

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

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

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

Penal  
provisions  
relating to  
elections.  
Cap. 24.

**33.** Sections 20 to 28 (both inclusive) of the Legislative Council Ordinance shall apply *mutatis mutandis* to any election held under the provisions of this Ordinance.

### PART III.

#### APPOINTMENT OF OFFICERS.

Chairman of  
Council.

**34.** (1) In every district established under this Ordinance there shall be elected at the first meeting of the Council, and thereafter at the first meeting of the Council held after every annual election of members, one member of the Council who shall be Chairman, and such Chairman shall hold office until his successor is appointed as herein provided.

(2) At every meeting for the election of Chairman, the Senior or Resident Commissioner shall preside and shall have a deliberative vote only, provided that in the case of an equality of votes for two or more candidates, he shall determine the election by lot.

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

**35.** (1) The Council may, subject to the approval of the Governor appoint as permanent, part-time or consulting officers fit and proper persons to be Clerk, Treasurer, Engineer or, subject to the provisions of section 65 of this Ordinance, Medical Officer of Health, and may pay such officers such salaries and allowances as the Council may subject to the approval of the Governor determine.

Clerk to Council and other officers.

(2) The Council may also appoint such other officers as may be considered necessary and may pay to such officers such salaries and allowances as the Council may determine.

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

(4) No officer holding the post of Clerk, Treasurer, Engineer or Medical Officer of Health shall be removed from office unless and until such removal has been decided upon by a resolution passed by a majority of the whole Council, nor unless and until the Governor has notified to the Council his approval of the removal of such officer.

#### PART IV.

##### MEETINGS AND PROCEEDINGS.

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

Ordinary meetings.

**37.** The Clerk shall give at least one week's notice in writing to each of the members of the time and place appointed from time to time for ordinary meetings of the Council.

Notices of ordinary meetings.

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

**38.** Any member who, without having first obtained leave from the Council, absents himself from three consecutive ordinary meetings of the Council shall become disqualified from continuing to be a member, and the Clerk shall, at the next ordinary meeting of the Council after such continued absence report the same, and the Chairman shall thereupon declare the seat of such member vacant.

Absence of members from meetings.

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

Meetings to be public.

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

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

Quorum.

Chairman to  
preside at  
meetings and  
have casting  
vote.

**41.** (1) At every meeting of the Council the Chairman, if present, shall preside. In the event of the absence of the Chairman the Councillors present shall elect a Chairman from amongst themselves to preside at such meeting.

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

Special  
meetings.

**42.** The Chairman may at any time and shall, at the request in writing of not less than one-third of the members, call a special meeting of the Council. The notice of any special meeting shall specify the object of the meeting; and no other subjects than those specified in such notice shall be discussed at such meeting.

Minutes to be  
kept and  
signed.

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

Meetings  
deemed to be  
duly held.

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

Minutes to be  
open to  
inspection.

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

Adjournment  
of meetings.

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

Appointment  
of committees.

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

(2) The quorum of every committee shall be fixed by the Council, but shall in no case be less than two members.

(3) Each committee shall report its proceedings to the Council, but to the extent to which the Council so directs the acts and proceedings of the committee shall not require the approval of the Council.

(4) Each committee shall elect its own Chairman.

(5) Every committee appointed by the Council may be dissolved after notice of motion to that effect by the vote of the majority of the whole Council.

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

Procedure at  
meetings of  
committees.

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

**49.** (1) In any district where district road areas have been proclaimed by the Governor in terms of section 4 of this Ordinance, the Council shall from time to time appoint out of its own body a District Road Area Committee for each such road area consisting of such number of members as the Council shall think fit, and may delegate to any District Road Area Committee such powers (other than power to raise money by rate or loan or any other power as to the exercise of which special provision is made in this Ordinance) as it may decide.

Appointment  
of Road Area  
Committee.

(2) The Council may empower any such District Road Area Committee to add to its number either one or two residents in the district road area concerned who are not members of the Council, and such additional members shall be allowed to vote upon any question, but no such additional member may be elected as chairman of any such District Road Area Committee.

(3) All the provisions of this Ordinance which apply to Committees appointed by the Council under section 47 hereof, shall apply *mutatis mutandis* to District Road Area Committees appointed under this section.

**50.** All acts of the Council or of any person acting as chairman, member, clerk or any other official, as the case may be, shall, notwithstanding that it be discovered that there was some defect in the election or appointment of any such person or that he was disqualified, be as valid and effectual as if such person had been duly elected or appointed and qualified.

Validity of acts  
of Council and  
officers.

**51.** (1) Every order, notice or other document requiring authentication by the Council shall be deemed to be sufficiently authenticated without the common seal of the district if signed by two members or by the clerk or by any other officer of the Council duly authorised thereto by any resolution or by-law of the Council.

Authentication  
and execution  
of documents.

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

Exemption of Councillors, etc., from personal liability.

**52.** No matter or thing done or omitted and no contract entered into by the Council, and no matter or thing done or omitted by any member or officer or servant of the Council or other person acting under the direction of the Council, shall, if the matter or thing was done or omitted or the contract was entered into in good faith for the purposes of this Ordinance or of any by-law in force in the district, subject any such person personally to any action, liability, claim or demand whatsoever; and any expense incurred by the Council or any such person as aforesaid shall be paid by the Council out of its revenues :

Provided that nothing in this section shall exempt any such member, officer or servant or other person aforesaid from liability to be surcharged by the inspector under section 117 of this Ordinance.

Member not to vote on question in which he has pecuniary interest.

**53.** (1) No member shall be present at the discussion upon any matter in or before the Council or a committee thereof in which he has directly or indirectly, by himself or his partner, any pecuniary interest.

(2) Every member who knowingly offends against this section is liable for every such offence to a fine not exceeding fifty pounds, and on conviction his seat on the Council shall become vacant.

Travelling expenses of members.

**54.** (1) The Council may from time to time vote such reasonable sums as it deems sufficient to defray the actual travelling expenses only of members attending meetings of the Council or any committee thereof, or attending any business of the Council when authorised by resolution of the Council to do so.

(2) A member voting upon any such question shall not thereby become liable to any penalty under the last preceding section.

Interest of officers or servants in contracts.

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

(2) Every officer or servant who knowingly offends against this section shall be liable for every such offence to a fine not exceeding fifty pounds.

## PART V.

### POWERS AND DUTIES.

#### *General Powers.*

Power to enter into contracts.

**56.** (1) The Council may enter into contracts for the supply of goods or for the purpose of any work or service which it is, by or under the provisions of this Ordinance, empowered to undertake or carry out :

Provided that except in cases of emergency no contract the amount of which exceeds seventy-five pounds, shall be made except after public tender, of which at least fourteen days' clear notice shall be given in the Gazette and in one newspaper circulating in the district, or if there be no such newspaper, then by fixing a notice outside the principal door of the offices of the Council :

Provided further that the Council shall not be compelled to accept the lowest or any tender.

(2) The Council may enter into contracts with any other District Council or with any Municipal Council or Board for or with respect to the doing and the control or management by either or both of the contracting parties of any of the things provided for in this Ordinance, or of any matter or thing the Council and such other Local Authority is by law empowered to do, control, and manage.

(3) The Council may enter into contracts with the Government for the purpose of any work or service for which the Government is responsible within or adjacent to the district under the jurisdiction of the Council or for any purpose which the Council is authorised to carry out under this Ordinance.

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

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

- (1) To acquire, hire, erect, maintain and keep in repair **Buildings.**  
such offices and buildings as may be required for the purposes of the Council.
- (2) To plant trees or remove trees in or on any public place. **Trees in public places.**
- (3) To arrange for the lighting of public places and the erection and maintenance of lamps for that purpose. **Lighting public places.**
- (4) To pay the medical or funeral expenses of any person employed by the Council who suffers injury or dies as the result of an accident occurring in the course of his employment or as the result of illness contracted in consequence of such employment. **Medical and funeral expenses of persons employed by Council.**
- (5) Subject to the consent of the Governor, to grant from the revenues of the Council pensions or gratuities to officers and servants on their retirement from the service of the Council and to dependants of deceased officers and servants of the Council. **Pensions and gratuities to officials and servants.**
- (6) To establish and maintain outspan grounds within the district. **Outspans.**
- (7) Subject to the consent of the Governor in Council— **Grants to institutions.**
  - (a) to make grants of money towards the establishment and maintenance of schools within or without the district;
  - (b) to provide bursaries to assist parents belonging to the district in educating and maintaining their children at any school;



(c) to make grants of money towards the establishment and maintenance of hospitals and dispensaries, whether within or without the district.

General.

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

Expenditure for carrying out purposes of this Ordinance.

(9) To incur all expenditure necessary for the carrying out of any purpose of this Ordinance which the Council is authorised to carry out, or for any purpose not specially provided for in this Ordinance which the Governor may determine to be a purpose incidental to the exercise by the Council of its powers and duties under this Ordinance.

#### *Roads.*

Classification of roads.

**58.** (1) The Governor shall, as soon as may be after the establishment of any district under this Ordinance, classify all public roads within such district, and shall, whenever necessary, classify any new public roads.

(2) Public roads shall, when so classified, be described as either Main Trunk Roads or District Roads, and District Roads shall be classified further as either Main District or Minor District Roads.

Powers under Public Travel and Access Roads Ordinance to be exercised by Council.

**59.** From and after the date upon which any District Council is constituted for any district under this Ordinance, such Council shall, within such district, exercise all or any of the powers and carry out the duties prescribed for district road boards by sections 8 to 17 inclusive of the Public Travel and Access Roads Ordinance (Cap. 113).

Council to control district roads.

**60.** The Council shall have the general control and care of all district roads, as herein defined, and of all bridges, ferries, fords, drifts, culverts, drains, and other accessories on any such road or used in connection therewith, and the Council may make, construct, alter, repair, and, if necessary, temporarily close any such road or any such bridge, ferry, ford, drift, culvert, drain and other accessory :

Provided that the Council shall not commence to construct or carry out any road work, the cost of which would exceed one thousand pounds, without the consent of the Governor, and the Council shall in every such case furnish such plans and specifications as may be required by the Commissioner for Local Government.

District roads in Native Reserves.

**61.** Where any public road (not being a main trunk road) mainly required to serve the population of the district crosses a portion of a Native Reserve, the Council may, with the approval of the Governor, exercise all the powers and carry out all the duties in respect of such road which the Council would, under this Ordinance, have exercised or carried out if such road had been within the district.

Power to take material for roads and works.

**62.** (1) For the purpose of the construction or maintenance of roads, or the carrying out of any works which the Council is empowered by this Ordinance to carry out, the Council may enter upon any land, and remove therefrom any clay (other than kaolin), country rock, gravel, murrum, lime, sand, shale, shingle, slate, surface soil, or surface salt :

Provided that—

- (a) prior to the exercise of the powers conferred by this section, the Council shall give notice by personal service or by registered post to the last-known address of the owner or occupier of such land;
- (b) compensation shall be payable by the Council to the owner or occupier of such land for any damage done to buildings, roads or crops or otherwise, and for any interference with the rights of occupancy of such land;
- (c) any pit or quarry made in the exercise of the rights conferred upon the Council under this section shall be filled up, fenced or secured by and at the expense of the Council.

(2) If any person interested in any land in respect of which the powers conferred by this section are to be exercised by the Council shall notify the Council in writing within fourteen days of the issue of the notice referred to in paragraph (a) of sub-section (1) of this section that he objects to the exercise of such powers, the Council shall not proceed therewith without the approval of the Governor.

(3) Any dispute as to the amount of any compensation payable by the Council under this section shall be settled by arbitration.

(4) For the purposes of this section the expression "owner or occupier" shall, in respect of unalienated Crown lands, include the Commissioner of Lands, and shall, in respect of land in Native Reserves, include a Senior Commissioner of the Province within which such lands are situated.

**63.** The Governor may recover from the Council any expenditure incurred by Government in respect of compensation for land resumed for the purpose of any district road within the jurisdiction of the Council, under the Crown Lands Ordinance, or any other law.

Compensation for land used for district roads.  
*Cap. 140.*

#### *Public Health.*

**64.** The Council may contribute towards any expenditure incurred by Government within the district for the preservation of public health, including the emoluments of medical officers of health and sanitary inspectors.

Council may contribute to public health expenditure.

**65.** (1) Notwithstanding anything contained in the Public Health Ordinance or any law amending or replacing the same, the Governor may, if the Council shall so request, declare the Council to be a "local authority" within the meaning of the said Ordinance.

Council may be declared a "local authority" under Public Health Ordinance.  
*Cap. 124.*

(2) When the Council is declared a local authority under this section the Council may appoint a medical officer of health, sanitary inspector or other necessary officers and servants, and shall be vested with all the powers and charged with all the duties prescribed for local authorities under the said Ordinance:

Provided that the Governor shall not declare any Council to be a local authority as aforesaid unless and until such Council shall have exercised the power to impose a district rate under the provisions of section 73 of this Ordinance.

*By-laws.*

Power to make  
by-laws.

**66.** The Council may from time to time make, alter and revoke by-laws in respect of all or any of the following purposes :—

- (1) For regulating any of the things which the Council is empowered under this Ordinance to do, establish, maintain or carry on.
- (2) For regulating the proceedings of the Council and preserving order at meetings of the Council and of committees, and for prohibiting, restricting and regulating the publication and disclosure of the Council's documents and records and the proceedings of any committee of the Council, and for regulating the duties and privileges of members, officers and servants of the Council.
- (3) For protecting from damage or interference works or property of the Council situated or being in, under or over any public place or other place within the district.
- (4) For regulating the imposition and collection of a flat rate per head of African labour employed within the district and for requiring employers of African labour to render returns of all such labour employed by them to the Council at such times and in such manner as the Council may require.
- (5) If and when the Council is declared a local authority under section 65 (1) of this Ordinance, for preserving the public health and for preventing the outbreak and spread of infectious and communicable disease.
- (6) For securing the eradication of any weed which may be declared by the Governor to be noxious from any land within the district and for compelling owners or occupiers of such land to cause any such weed to be eradicated on their land.
- (7) For preserving public decency.
- (8) For controlling and regulating native dances on farms or elsewhere within the district.

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

By-laws, how to  
be made.

**67.** No by-law shall be made or amended by the Council unless and until a copy of such proposed by-law or amendment shall have been deposited at the office of the Council for inspection by any person at all reasonable times, and unless and until a notice shall have been published in some newspaper (if any) circulating in the district and affixed to the principal door of the Council's offices fourteen days prior to the meeting of the Council held for the purpose of making such by-law or amendment setting forth the general purport of the proposed by-law or amendment and stating that a copy thereof is open to inspection as aforesaid :

Provided that any objection to any such proposed by-law or amendment shall be lodged with the clerk within thirteen days after the publication of the notice as aforesaid.

**68.** (1) After any by-law has been made or amended by the Council such by-law or amendment shall be submitted to the Commissioner for Local Government for the approval of the Governor, together with—

Submission of  
by-laws for  
approval of  
Governor in  
Council.

- (a) a copy of the minutes of the meeting of the Council at which the by-law or amendment was adopted;
- (b) a certificate by the clerk that the provisions of the last preceding section have been complied with;
- (c) copies of any objections against the adoption of the by-law or amendment which may have been lodged in writing, with the clerk, or, if none have been lodged, a statement to that effect.

(2) The Governor may approve, alter or reject any such by-law or amendment.

(3) Upon approval by the Governor of any by-law or amendment (with or without alteration thereof) such by-law or amendment shall be published in the Gazette and thereupon shall have the full force of law within the district.

(4) A copy of the Gazette containing any by-law of the Council shall be evidence of the due making of such by-law and of the contents thereof.

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

Power of  
Governor to  
make, etc.,  
by-laws.

**70.** The Council may, by by-law, impose a penalty for the breach of any by-law made under this Ordinance and may also impose different penalties in case of successive or continuous breaches, but no such penalty shall exceed twenty-five pounds. Any by-law may further provide that, in addition to any such penalty, any expense incurred by the Council in consequence of any breach of such by-law, or in the execution of any work directed by any such by-law to be executed by any person and not executed by him, shall be paid by the person committing such breach or failing to execute such work.

Penalties for  
breaches of  
by-laws.

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

Prosecution for  
contravention  
of by-laws.

## PART VI.

### POWERS OF TAXATION.

**72.** In this Part, unless the context otherwise requires— Interpretation.

“Occupier” means and includes any person in actual occupation of rateable property without regard to the title under which he occupies;

“ Owner ” in the case of any freehold land, means the person owning such land, and in the case of leasehold and other land means the person holding such land directly from the Crown as lessee or licensee;

“ Rateable property ” means all land within the district, save and except—

- (a) land occupied by buildings used primarily for public worship and by the necessary curtilage;
- (b) land used for burial or burning grounds;
- (c) land used exclusively for the purposes of any charitable or educational institutions supported mainly by endowments or voluntary contributions;
- (d) land laid out and used for the purpose of sport or recreation and controlled in accordance with rules or regulations approved by the Council: Provided that any land used as a recreation ground conducted for profit or as a racecourse shall not be entitled to the benefit of this exemption;
- (e) any land held by the Crown or by the High Commissioner for Transport;

“ Improvements ” means all work actually done or materials used on, in or under land by the expenditure of capital or labour by any owner or occupier of such land;

“ Unimproved value of land ” means the sum which the owner's estate or interest therein, 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, therein or thereunder had not been made.

#### THE DISTRICT RATE : PRELIMINARY PROCEDURE.

The district rate.

**73.** (1) An annual rate upon land (herein referred to as “ the district rate ”) may be imposed by the Council as hereinafter provided.

A method of taxation shall be adopted.

(2) Before the Council may commence to impose the district rate the following procedure shall be carried out :—

- (a) The Council shall, by resolution passed by a majority of not less than two-thirds of the elected members of the Council, adopt one or other of the following methods of rating :—
  - (i) a rate upon the unimproved value of land;
  - (ii) a flat rate upon the area of land;
  - (iii) a graduated rate upon the area of land.
- (b) Before the Council may vote upon any such resolution, at least sixty days' notice shall be given at a meeting of the Council of the intention to move such a resolution, and a copy of the proposed resolution shall be published in the Gazette and in one or more newspapers (if any) circulating within the district, once a week for six consecutive weeks, and shall be exhibited in a conspicuous place at or near the public entrance to the offices of the Council.

(3) The Council may from time to time vary the method of rating for the purpose of the district rate, but no more than one of the methods of rating referred to in this section shall be in force within the district at one time, and whenever it is desired to substitute one method of rating for another method of rating, the procedure laid down in sub-section (2) hereof shall in all cases be followed :

Provided that whenever the Council has adopted as a method of rating a rate upon the unimproved value of land and a valuation roll has been prepared as hereinafter provided, none other of the methods of rating referred to in this section shall be substituted therefor without the consent of the Governor in Council.

**SPECIAL PROVISIONS WHEN THE DISTRICT RATE IS IMPOSED IN THE FORM OF A RATE UPON THE UNIMPROVED VALUE OF LAND.**

**74.** (1) As soon as may be after the Council has adopted as a method of rating a rate upon the unimproved value of land, the Surveyor General or other person appointed by the Governor (herein called "the valuer") shall prepare a valuation roll of all rateable property within the district, without cost to the Council. Valuation roll and appointment of valuer.

(2) Not less than once in every five years after the completion of the first valuation roll for the district, the Governor shall cause a new valuation roll of all rateable property within the district to be prepared by such person (herein called "the valuer") as he may appoint :

Provided that the Governor in Council may direct that the whole or any portion of the cost of preparation of any valuation roll (not being the first valuation roll for the district) shall be borne by the Council.

(3) If any valuation roll shall not be completed until after the expiry of five years from the date of completion of the last preceding valuation, the Council shall not then impose any rate on any previous valuation but on such valuation when completed, and no such valuation shall be invalidated by reason of not having been completed within such term of five years.

(4) For the purposes of this section, the valuation shall be deemed to be completed on the date the valuation roll is signed by the President of the Valuation Court under section 80 of this Ordinance.

**75.** Every valuer shall, before entering upon the valuation entrusted to him, make before a magistrate or 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, 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  
....., 19.....

Before me :

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

Valuation roll  
to be  
prepared in  
writing.

**76.** The valuation roll shall be prepared in writing in such manner as to show to the best of the knowledge and opinion of the valuer—

- (1) the name and address of the owner;
- (2) the description and situation of the property;
- (3) the unimproved value of the land.

Valuer to have  
power of entry  
and inspection.

**77.** (1) Every valuer provided with written authority signed by the chairman or 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 district, 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 officer or any person, in which are contained particulars of any rateable property, whether such person is or is not interested in such rateable property.

(2) 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.

(3) 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 to furnish such particulars within fourteen days after being called upon to do so, shall be liable on conviction 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 of any other particulars as aforesaid, shall be liable on conviction to a penalty not exceeding fifty pounds in respect of each offence.

Inspection of  
provisional  
roll; objections.

**78.** When the valuation roll has been completed it shall be laid before the Council 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 Council shall, by notice published in the Gazette and in one or more newspapers (if any) circulating in the district call upon all persons interested to lodge in writing with the Clerk, within a specified time not less than one month from the first publication of such notice, 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 objection before the Valuation Court hereinafter referred to unless he shall have first lodged such notice of objection as aforesaid.

Valuation  
Court; duties  
and  
proceedings.

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

(2) Such Court shall hereafter, 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 the sitting of the Court at which any proposal for such increase or addition will be considered, and such person 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 members acting as such shall also have a casting vote.

(4) No person 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 Governor 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 clerk shall, by publication in the Gazette and in one or more newspapers (if any) circulating in the district, give not less than seven days' previous notice of the date fixed for the first sitting of such Court.

(7) At every sitting of such Court the Council 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 an advocate.

(8) At every sitting of such Court it shall be competent for the Court to call and examine any witnesses on oath and to 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 president or member acting as such 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.

Valuation roll.

**80.** When the Valuation Court has completed its examination of the valuation roll, and has made such alterations and amendments therein as it may deem necessary, the president of the Court shall sign and certify the same. He shall further cause to be inserted in the Gazette and in one or more newspapers (if any) circulating in the district not less than twice within a period of two weeks, an advertisement 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.

Right of appeal from decision of Valuation Court.

**81.** (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 Valuation Court to the court of the Magistrate having jurisdiction within the district, and such last-mentioned court shall enquire into such valuation, and its decision shall be final and conclusive :

Provided, however, that if any question of law shall arise as to the principle upon which any valuation has been or should be made, it shall be lawful for such Magistrate, instead of himself deciding such question, at the request of the Council 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 Council to appeal within one month against the decision of the Valuation Court in respect of any rateable property in the district to the Court of such Magistrate, and such appeal shall be subject to the provision set forth in sub-section (1) hereof in respect of appeals by the owner or occupier of property.

Power to remit rates, to cause rateable property omitted to be valued, and to cause revaluations.

**82.** Notwithstanding anything in this Ordinance contained, it shall be lawful for the Council from time to time and at any time—

- (a) to remit any rate imposed on any rateable property in such 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 has been made in such roll, and to cause any rate due in respect thereof to be collected according to the corrected roll :

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, except that in the direction of the Council the prescribed notices may be served in writing upon the person interested instead of being published as aforesaid;
- (ii) every such valuation, revaluation, correction and apportionment shall be subject to any objection made thereto at the next succeeding Valuation Court which may be appointed by the Council under this Ordinance and to the same right of appeal as is provided for in the last preceding section;
- (iii) in the case of any property which is added to the roll or the valuation of which is increased under this section, 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.

**83.** Subject to the provisions of section 73 of this Ordinance, the Council may, by resolution passed by a majority of the elected members of the Council, impose a rate for each financial year upon the unimproved value of land as shown by the valuation roll of such amount as the Council shall determine : Imposition of rate.

Provided that no such rate shall, in any one financial year, exceed half of one per centum without the sanction of the Governor in Council.

**SPECIAL PROVISIONS WHEN THE DISTRICT RATE IS IMPOSED IN THE FORM OF A FLAT RATE OR GRADUATED RATE UPON THE AREA OF LAND.**

**84.** (1) As soon as may be after the Council has adopted as a method of rating for the purpose of the district rate a flat rate or graduated rate upon the area of land, the Council shall cause to be prepared an area roll of all rateable property in the district, which shall show in respect of each property— Area roll to be prepared by Council.

- (a) the name and address of the owner;
- (b) the description and situation of the property;
- (c) the area of the land in acres.

(2) Where the method of rating adopted is that of a graduated rate upon the area of land, all land within the district defined herein as rateable property shall be classified by the Council according to the purposes for which it is used, or, in the case of unused land, according to the purposes for which it is suitable, and particulars of such classification shall be shown in the area roll. For the purposes of this sub-section land shall, in the first place, be classified as either agricultural land or pastoral land; and agricultural land shall be classified further under headings which shall indicate its character, and relative value.

Powers of  
Council for  
compilation of  
area roll.

**85.** For the purpose of compiling the area roll, the Council or any person authorised by the Council shall have all the powers conferred upon valuers by section 77 of this Ordinance, and all the provisions of the said section shall *mutatis mutandis* apply.

Provisional  
area roll;  
inspection and  
objections.

**86.** (1) When the area roll has been completed it shall lie at the office of the Council for public inspection, and any person may at all reasonable times inspect the same and take copies or extracts therefrom. The Council shall by notice published in the Gazette and in one or more newspapers (if any) circulating in the district, call upon all persons interested to lodge in writing with the clerk, within a specified time not less than one month from the first publication of such notice, statements of any objections they may have in respect of the classification of any rateable property shown in the area roll, 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.

(2) After the expiration of the period specified in such notice, the Council shall inquire into all objections received and shall make such alterations and amendments to the area roll as they may deem necessary, and the chairman shall then sign and certify the area roll, and shall cause to be inserted in the Gazette and in one or more newspapers (if any) circulating in the district not less than twice within a period of two weeks, an advertisement informing all persons interested of the completion of the area roll, and that the same will become fixed and binding upon all parties concerned who shall not before a date fixed in such advertisement, not being less than one month from the date of the first publication thereof, appeal from the decision of the Council in manner provided in the next succeeding sub-section.

(3) It shall be lawful for any person who feels himself aggrieved by the classification or area fixed in respect of any property owned or occupied by him to appeal within the period of one month aforesaid against the decision of the Council to the court of the Magistrate having jurisdiction within the district, and the decision of such court shall be final and conclusive.

Powers to  
remit rates  
and amend  
area roll.

**87.** Notwithstanding anything in this Ordinance contained, it shall be lawful for the Council from time to time and at any time—

(1) to remit any rate imposed on any rateable property in such cases as may be approved by the Governor;

- (2) to cause any rateable property omitted from the area roll or new rateable property to be added to the area roll and to classify any such rateable property in terms of section 84 of this Ordinance; and to cause the current rate to be collected in respect thereof;
- (3) to amend the area roll in respect of any rateable property which is sub-divided and to cause any rate in respect thereof to be assessed and collected according to such sub-division;
- (4) to amend the area roll from time to time in any case where some clerical error has been made in such roll, and to cause any rate due in respect thereof to be collected according to the corrected roll;
- (5) to remove from the area roll any property which shall at any time cease to be rateable property;
- (6) to amend the classification of any rateable property when such shall at any time be necessary, and to cause any rate due in respect thereof to be collected according to the corrected classification;

Provided that—

- (i) upon the making of any addition or alteration to the area roll 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 the preparation of the roll in the first instance except that in the discretion of the Council the prescribed notices may be served in writing upon the person interested instead of being published as aforesaid;
- (ii) every such addition or other alteration shall be subject to any objection made thereto by any interested persons and to the same right of appeal as is provided for in the last preceding section of this Ordinance.

**88.** Subject to the provisions of section 73 of this Ordinance, the Council may by resolution passed by a majority of the elected members of the Council impose a flat rate per acre for each financial year upon all rateable property as shown by the area roll of such amount as the Council shall determine :

Imposition of flat rate.

Provided that no such rate shall exceed 10 cents per acre in any one financial year without the sanction of the Governor in Council.

**89.** (1) Subject to the provisions of section 73 of this Ordinance, the Council may, by resolution passed by a majority of the elected members of the Council, impose for each financial year upon all rateable property as shown by the area roll a graduated rate of such amount per acre in respect of each class of land shown by the area roll as the Council shall determine.

Imposition of graduated rate.

(2) In fixing the rates per acre chargeable in respect of the different classes of land, the Council shall be guided by the relative unimproved values of such different classes of land throughout the district at the time the rates are imposed.

(3) No such rate shall in any one financial year exceed in the aggregate the amount which would be produced by a uniform rate of 10 cents per acre over the whole of the district without the sanction of the Governor in Council.

## THE DISTRICT RATE.—GENERAL PROVISIONS.

Valuation on area roll not to be challenged or set aside.

**90.** No valuation contained in any valuation roll framed under this Ordinance, and no area or classification of land contained in any area roll framed under this Ordinance, and no rate based upon any such valuation roll or such area roll, 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 the owner thereof; and no valuation roll or area roll made up and authenticated in terms of this Ordinance shall be capable of being challenged or set aside by reason of any informality.

Power to impose separate rates in district road areas.

**91.** Subject to the consent of the Governor in Council, where the district has been divided into district road areas under section 4 of this Ordinance, any district rate which the Council has power to impose may be imposed as a separate rate within each such district road area and the amount of the rate may be fixed independently for each such district road area according to the expenditure necessary therein :

Provided that nothing in this section shall be deemed to prevent the Council imposing a district rate over the whole of such district in addition to any separate rates imposed within such district road areas.

And provided further that the total district rates imposed within any part of the district shall not exceed the maximum fixed by this Ordinance without the consent of the Governor in Council.

Notice of rates.

**92.** Every rate imposed by the Council 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 some newspaper (if any) circulating in the district :

Provided that every rate shall become due and payable within the financial year for which or for part of which it is imposed.

Payment of rates.

**93.** (1) Whenever the Council 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.

(2) It shall be competent for the Council 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.

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

Enforcement of payment of rates.

**94.** If after the time fixed for the payment of any such rate as aforesaid any person fails to pay any rate due by him, it shall be competent for the Council 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 Council to apply to the

magistrate having jurisdiction within the district 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 clerk 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 said magistrate.

95. Notwithstanding the provisions of the last preceding section, the Council 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 magistrate having jurisdiction within the district 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 be effected in such manner as the said Court shall direct.

Recovery of rates.

96. 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 magistrate of the district, it shall be lawful for the Council at its option to make the demand referred to in section 94 hereof upon, or to take proceedings under section 95 hereof against, any person person receiving any rents 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.

Proceedings against persons liable for rates.

97. 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 Council 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.

98. 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, area rolls, and records of the Council and all entries made therein and extracts or certified copies thereof signed by the chairman or clerk, and also all copies of any newspaper containing any notice necessary to

Evidence.

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.

Owner liable  
for rates.

**99.** 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 92 of this Ordinance shall be liable for payment of the amount of such rate, and in 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.

Application of  
rates.

**100.** The proceeds of the district rate or rates levied under this Ordinance may be applied for and towards any purposes in respect of which the Council is authorised by this Ordinance to incur expenditure.

#### ADDITIONAL RATING POWERS.

Rate per head  
of African  
labour.

**101.** (1) For the purpose of making grants to any hospital or dispensary for the benefit of Africans employed within the district which the Council is empowered by this Ordinance to make, the Council may, by resolution passed by a majority of at least two-thirds of the elected members of the Council, adopt as an additional method of rating a flat rate per head of Africans employed within the district:

Provided that notice of such resolution shall be given and advertised in the same manner and for the same periods as if such resolution were a resolution to adopt a method of rating for the purposes of a district rate under section 73 of this Ordinance.

(2) When such method of rating has been adopted as aforesaid the Council may from time to time by resolution passed by a majority of the elected members of the Council, impose a rate upon all employers of African labour of such amount per head in respect of all Africans employed by them as the Council shall determine.

(3) For the purposes of this section "Africans" shall include any natives residing on farms under the provisions of the Resident Native Labourers Ordinance, 1925, or any law amending or replacing the same.

#### PART VII.

##### GENERAL FINANCIAL PROVISIONS.

##### *Revenue and Borrowing Powers.*

Revenues.

**102.** The revenues of the Council shall include—

- (a) all rates levied by the Council;
- (b) one-half of all fines imposed by any competent Court in respect of any contravention of the provisions of this Ordinance or of any by-laws made thereunder;
- (c) Government grants;
- (d) all other moneys recoverable by the Council or to which the Council is entitled under this Ordinance or any other law.

**103.** (1) No transfer of any premises within a district shall be passed or registered before any registration officer until a written statement signed and certified by the clerk or other officer authorised thereto by the Council, shall be produced to such registration officer, nor unless such statement shows that all charges (if any) for a period of three years immediately preceding such date due in respect of such premises on account of any rates imposed under this Ordinance have been paid to the Council.

Payment of rates before transfer of premises.

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

**104.** There shall be paid to the Council from the general revenue of the Colony an annual grant (herein called the "basic road grant") which shall be fixed by the Governor in Council, and which shall be calculated in the following manner:—

Basic road grant.

- (1) There shall be taken a sum equal to the amount provided in the Annual and Supplementary Estimates of the Colony for the financial year 1927 for the maintenance and improvement of all roads within the district which shall be classified under section 58 of this Ordinance as district roads:

Provided that such sum may be increased by such amount as the Governor in Council may deem necessary if it shall appear that no provision was made in such estimates for the maintenance of any district roads for which the Council will become responsible at the date of its constitution, or which, though not constructed at such date were approved prior to such date for construction from loan funds.

- (2) There shall be added to such sum an amount equal to twenty-five per centum thereof, or such larger amount as the Governor in Council shall deem necessary for the purpose of enabling the Council to employ the necessary staff, to maintain the necessary plant and equipment and generally to carry out the duties and obligations placed upon the Council under this Ordinance in respect of roads.

**105.** (1) Additional road grants may also be paid from the general revenue of the Colony to the Council in respect of expenditure in any financial year on account of—

Additional road grants.

- (a) construction and maintenance of new district roads;
- (b) improvement of existing district roads;
- (c) new permanent bridges or other special works in connection with district roads.

(2) Every application for a grant under this section shall be forwarded to the Commissioner for Local Government and shall show details of the works proposed, the estimated cost thereof, the proportion of such cost which it is proposed to meet from such grant and any other information which may be required.



Vehicle licences  
to be paid to  
the Council.

**106.** There shall be paid to the Council from the public revenues of the Colony all sums derived by Government from the taxation of vehicles (not being motor vehicles) belonging to persons having a residence or place or business within the district where such vehicles are ordinarily housed or kept :

Provided that the Council may be required to pay a collection fee not exceeding five per centum of the amount so payable to the Council.

Public health  
grants.

**107.** In the case of any Council which shall have been declared a local authority within the meaning of the Public Health Ordinance (Cap. 24) in terms of section 65 of this Ordinance, there shall be payable to the Council from the public revenues of the Colony—

- (1) a sum equal to one-half of the annual emoluments of the Medical Officer of Health and of all qualified Sanitary Inspectors appointed in accordance with the provisions of this Ordinance ;
- (2) a sum equal to one-half of any expenditure incurred by the Council in connection with outbreaks of infectious diseases, subject, however, to approval by the Governor of the details of such expenditure.

Governor may  
make advances  
on account  
of grants.

**108.** The Governor may at any time make advances to the Council in respect of any grants payable or to become payable under this Ordinance, and any such advances shall be free of interest and shall be deducted from the grants when paid :

Provided that no such advance shall be made in any financial year in respect of grants for a succeeding financial year.

Borrowing  
powers.

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

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

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

(4) On the hearing of such application the Court may make such order and give such directions as under the circumstances shall seem expedient for the raising and payment of the moneys due. In particular, the Court may order that a district rate or rates of such amount or amounts as it may fix

be levied upon all rateable property within the district; and such rate so ordered shall have the same incidence as any rate imposed by the Council and may be enforced in like manner, and the proceeds thereof shall be paid into Court or otherwise as the Court shall direct.

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

(6) The Court, on such application, in addition to any order which it is empowered to make under sub-section (4) of this section, may, if it shall think fit, order the sale of any property on which the loan may be secured, subject always to the provisions of any law as regards the alienations of any lands vested in the Council under such law.

**110.** (1) For the purposes of this Ordinance the financial year shall be the twelve months ending on and including the thirty-first day of December of each and every year.

Financial year  
statement of  
accounts.

(2) The accounts of the Council shall, as soon as may be, be balanced for the preceding financial year and an annual statement or abstract thereof shall be prepared. Copies of such annual statement or abstract, and of the inspector's report made under section 116 of this Ordinance shall be laid before the Council not later than its first ordinary meeting in the month of May following, and shall be delivered to any inhabitant of the district on application and on payment of the fee, if any, prescribed by resolution of the Council.

(3) Such annual statement or abstract shall be prepared in such form and shall contain such information as the Commissioner for Local Government may require, and such portions thereof or extracts therefrom, together with such portions or extracts from the inspector's report, as the Commissioner for Local Government may direct, shall be published in one or more newspapers (if any) circulating in the district.

**111.** (1) Not less than one month before the expiry of any financial year the Council shall approve detailed estimates of the revenue and expenditure of the Council for the next financial year.

Annual  
estimates to be  
framed by the  
Council.

(2) A summary of such annual estimates shall be published in the Gazette and in one or more newspaper (if any) circulating in the district at least fourteen days prior to the date of the meeting of Council at which such estimates are presented for the approval of the Council, and a copy of such annual estimates shall be delivered to any inhabitant of the district on application and on payment of the fee, if any, prescribed by resolution of the Council.

(3) The Council shall, before the commencement of each financial year, submit a copy of such annual estimates as approved by the Council to the Commissioner for Local Government for approval by the Governor in Council, and when so approved an abstract thereof shall be published in the Gazette. The Council shall not incur any expenditure which has not been included in such approved estimates except with the sanction of the Governor in Council :

Provided that reallocations of expenditure within the limits of the approved estimates which shall not increase or decrease any one item of expenditure by more than one hundred pounds may be made by the Council.

(4) For the purpose of approval under the last preceding sub-section estimates shall be prepared in such form and shall contain such detailed information as the Commissioner for Local Government may require.

(5) A copy of all estimates approved in accordance with this section shall be recorded in the minutes of the Council.

Advances from  
Government  
and overdrafts.

**112.** (1) The Council may from time to time obtain from Government advances of moneys required for the proper carrying out of the provisions of this Ordinance.

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

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

Illegal  
borrowing.

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

Depreciation  
regulations.

**114.** (1) It shall be the duty of the Council to frame regulations providing for the annual setting aside by the Council of amounts to create adequate reserve funds to provide for the entire or partial replacement of assets of the Council which owing to the depreciation or other cause will require at some future date to be replaced, and providing for the investment of such funds. Such regulations shall be submitted for the approval of the Governor who may approve the same with or without modification, and, when approved, shall be published in the Gazette: Provided that if the Council shall fail to frame such regulations and to submit the same for approval as aforesaid within a period of twelve months from the date on which the Governor shall require the Council so to do, such regulations may be made by the Governor.

(2) The Council shall pay annually out of its revenues into the reserve funds so created such contributions as are required by regulations made under this section, and no such moneys or any part thereof shall, without the sanction of the Governor, be used either permanently or temporarily for any purpose other than the purposes for which they have been contributed. All interest or other revenues derived from such reserve funds shall be paid into and become part of such funds.

*Accounts and Audit.*

**115.** (1) The Council shall cause proper books and accounts to be provided and true and regular records to be entered therein of all transactions of the Council, and such books and accounts shall be open to the inspection of any member of the Council, ratepayer or creditor of the district, without fee or reward. Any such person may make copies of or extracts from such books or accounts. Accounts to be kept.

(2) Where the district rate is imposed as a separate rate within each road area in terms of section 91 of this Ordinance the Council shall cause separate accounts of the revenue and expenditure of each such road area to be kept.

(3) All such books and accounts shall, in order to provide for the production of comparative statements of revenue, expenditure, cost, and general uniformity in the accounts of district Councils, be kept in such form and manner as the Commissioner for Local Government may direct.

**116.** (1) The Governor shall appoint one or more persons, being officers of the public service, from time to time to inspect, examine and report upon the accounts and records of the Council, and the Council shall, by the clerk or other officer authorised by the Council, produce and lay before the person or persons so appointed (in this Ordinance referred to as "the inspector") all books and accounts of the district together with all vouchers, papers and writings relating thereto. Audit of the accounts, etc., of the Council.

(2) It shall be the duty of the inspector to certify, not less than once in each financial year, whether or not—

- (a) the accounts of the Council are in order;
- (b) the accounts issued present a true and correct view of the financial position of the Council and of its transactions;
- (c) due provision has been made on account of redemption and repayment of all moneys borrowed by the Council;
- (d) the value of the assets of the Council has been fairly stated;
- (e) the amounts set aside for depreciation and renewal of the assets of the district are adequate and in accordance with regulations framed under section 114;
- (f) all his requirements and recommendations have been complied with and carried out.

(3) The inspector in his report shall state his opinions and observations upon all questions arising out of the certificate given by him under the last preceding sub-section, and upon all matters affecting the economical and efficient administration and conduct of services which in his opinion call for special notice, and shall in such report draw attention to all cases in which it shall appear to him that the provisions of this Ordinance or any other law have not been carried out or that any acts, matters or things have been performed or carried out without due authority.

(4) The clerk shall, immediately upon the receipt of the inspection report or reports or copies thereof, submit the same to the chairman of the Council and thereafter shall lay the same before the Council at its next ensuing meeting.

Inspector's  
power to  
charge.

**117.** (1) The inspector shall disallow every payment made without due authority according to law, and shall surcharge the same on the person or persons making or authorising the illegal payment, and shall charge against any person or persons responsible therefor the amount of any deficiency or loss occasioned by the negligence or misconduct of such person or persons or of any sum which ought to have been brought to account by any such person or persons, and shall in every case certify the amount due from such person or persons.

(2) For the purposes of this section the persons making or authorising any illegal payment shall include all members of the Council and of any committee thereof who were present at the meeting of the Council or committee at which such payment was authorised and who did not cause their votes against the resolution authorising such payment to be recorded in the minutes.

(3) An appeal shall lie to the Supreme Court from any decision of the inspector under this section, or the person surcharged may, in lieu of such appeal, appeal to the Governor whose decision shall be final.

(4) Every sum certified by the inspector, or found on appeal, to be due from any person under this section shall be paid into the fund from which it was taken within thirty days from the date of the inspector's certificate or decision on appeal, as the case may be, and if such sum is not so paid the inspector shall recover the same from the person surcharged in any competent court, and shall be paid by the Council his reasonable costs and expenses in such proceedings.

(5) In any proceedings for the recovery of such sum the inspector's certificate shall be conclusive evidence that the sum is due and payable by the person charged.

(6) On the production of such certificate the Court shall give a decree for the sum sued for, and every such decree shall have the effect of a decree under the Civil Procedure Ordinance, 1924, and any rules made thereunder.

Powers of  
inspector to  
take evidence.

**118.** (1) For the purpose of any examination under the provisions of section 116, the inspector may hear and receive evidence and examine witnesses upon oath (which oath the inspector is hereby empowered to administer), and may, by summons under his hand, require all such persons as he may think fit to appear personally before him at a time and place to be stated in such summons and to produce all such books and papers (including the minutes of the proceedings of the Council or of any committee thereof) as may be necessary for such examination.

(2) Any person so required who, without reasonable excuse—

(a) neglects or refuses to comply with the tenour of such summons; or

(b) having appeared, refuses to be examined on oath or to take such oath; or

(c) having taken such oath, refuses to answer such questions as are put to him,

shall be guilty of an offence and shall be liable, for every such neglect or refusal, to a fine not exceeding thirty pounds or to imprisonment for a period not exceeding six months.

## PART VIII.

## CENTRAL ORGANISATION.

**119.** The Standing Departmental Committee for Local Government established under the Local Government (Municipalities) Ordinance, 1928, shall advise the Governor upon all by-laws submitted for approval by the Council and upon all matters in regard to which the approval of the Governor or Governor in Council is required under this Ordinance or in regard to which the Governor or Governor in Council is empowered to make rules, regulations or by-laws under this Ordinance, or upon any matters which may be submitted to it for advice by its chairman.

Functions of  
Standing  
Committee.

**120.** The Governor may at any time require any officer of Government to conduct or cause to be conducted such investigations, researches and inquiries as the Governor may deem necessary for any purpose of this Ordinance or for assisting any Council in the carrying out of its duties under this Ordinance and generally for promoting the efficiency of local government in rural areas: and all necessary facilities shall be given by any Council to the Officer conducting any such investigations, researches and inquiries.

Inquiries.

**121.** (1) It shall be the duty of every Council constituted by or under this Ordinance to render to the Commissioner for Local Government, not later than the thirty-first day of March in each year, a report of the work of the Council and of the affairs of the district for the preceding financial year.

Reports to be  
rendered by  
Council.

(2) Such report shall be rendered in such form as may be directed by the Commissioner for Local Government, and shall be accompanied by such statistics as the Commissioner may require.

(5) A copy of such report shall be delivered by the Clerk to any inhabitant of the district on application and on payment of the fee, if any, prescribed by resolution of the Council.

**122.** (1) It shall be the duty of every Council to furnish to the Commissioner for Local Government a certified copy of any record or minutes of its proceedings and of the proceedings of any committee appointed by the Council and of a record of any accounts of the Council and such reports, statistics and documents as the Commissioner for Local Government may from time to time require.

Minutes, etc.,  
of Council to  
be furnished.

(2) Minutes of the proceedings of each meeting of the Council or of a committee thereof shall be forwarded within ten days after the date upon which such minutes were confirmed as prescribed by this Ordinance or any by-law made thereunder.

**123.** It shall be the duty of the Commissioner for Local Government to render to the Governor, not later than the thirtieth day of June in each year, a comprehensive report upon the affairs and activities of all Councils constituted by or under this Ordinance.

General report  
to be rendered  
to the  
Governor by  
the  
Commissioner.

**124.** (1) It shall be the duty of the Central Roads Board established under the Local Government (Municipalities) Ordinance, 1928, to advise the Governor upon the following matters:—

Functions of  
Central Roads  
Board.

- (a) The grants payable from the general revenue of the Colony under sections 104 and 105 of this Ordinance in respect of roads;

(b) The classification of roads in respect of which such grants are payable;

(c) All other matters concerning roads in districts.

(2) The Central Roads Board shall control any plant which may be placed at its disposal for the purpose of hire to any Council and shall prescribe charges for the hire of such plant, and shall do all other things necessary in regard to the conditions of hiring such plant.

## PART IX.

### SPECIAL POWERS OF THE GOVERNOR.

Governor's  
powers of  
nomination in  
certain  
circumstances.

**125.** (1) Pending the first election of members of the Council for any district constituted by or under the provisions of this Ordinance, the Governor may, by proclamation, nominate and appoint such number of fit and proper persons as he shall select, not being less than ten, to form a Council with jurisdiction over any area which under this Ordinance—

(a) has been constituted a district; or

(b) has been severed from a district (of which it formed part) and constituted a separate district.

(2) Every such nominated Council shall exercise all or any of the powers and authorities and shall carry out the duties conferred or imposed on a Council by this Ordinance or under any other enactment, and shall be subject to the obligations attaching to the exercise thereof.

(3) The period of office of every such nominated Council shall be from the date of the proclamation aforesaid until the date upon which a Council shall be duly constituted in accordance with the provisions of this Ordinance; and upon such latter date such nominated Council shall be deemed to be dissolved.

(4) Whenever any area has been severed from a district and constituted a separate district as aforesaid, the Governor may, by proclamation, declare that all by-laws which at the date of such severance were operative in such area shall, notwithstanding such severance, continue to have full force and effect in the said separate district until altered or revoked under and in accordance with the provisions of this Ordinance.

Power to  
dissolve  
Councils.

**126.** If any Council shall at any time neglect to hold a meeting for the space of six months, the Governor may dissolve such Council and may, by proclamation, nominate and appoint other fit and proper persons, not being less than ten in number, to form a Council for the purpose of this Ordinance, and every such nominated Council shall be competent and is hereby required to exercise all the powers and authorities vested in the Council which has been dissolved.

Power to  
reduce  
Government  
contributions  
in certain  
circumstances.

**127.** If at any time it shall appear that the revenues of a Council are not being properly used in the best interests of the district as a whole, or that the administration of the affairs of the Council is wasteful or inefficient, or that the Council has failed to act in conformity with the provisions of this Ordinance, the Governor in Council may, on the recommendation of the Standing Committee, and after such inquiry as he may deem necessary (at which inquiry the Council shall

be heard), reduce the road grants payable under sections 104 and 105 of this Ordinance, for the next succeeding financial year by such amount as he shall determine :

Provided that any reduction shall be notified to the Council within one month after the commencement of the financial year in respect of which such grants are payable.

## PART X.

### LEGAL PROCEDURE AND MISCELLANEOUS.

#### *Legal Procedure.*

**128.** (1) Where any matter is by this Ordinance directed to be determined by arbitration such matter shall, except as may be otherwise expressly provided, be determined by a fit person as arbitrator, to be agreed upon by the parties to the arbitration, or, failing such agreement by the parties, to be nominated by the Commissioner for Local Government on the application of either party. Arbitration.

(2) The expenses of any such arbitration shall be borne and paid as the arbitrator directs.

**129.** Every person who is guilty of any offence against this Ordinance or any by-law in force within any district shall, for every such offence, be liable to the penalty expressly prescribed by this Ordinance or by such by-law and, if no such penalty be prescribed, then to a fine not exceeding ten pounds. General penalties.

**130.** All fines, penalties or other moneys payable in respect of any offence against this Ordinance or any by-law in force within any district may be recovered before any court of competent jurisdiction. Recovery of penalties.

**131.** Save as in this Ordinance is otherwise expressly provided, whenever any fine shall have been imposed under the provisions of this Ordinance or of any by-law in force within any district, and the person convicted shall not forthwith pay the same, the court imposing the fine may direct that such person shall suffer imprisonment of either description for a period not exceeding one month if the fine does not exceed ten pounds, or for a period not exceeding three months if the fine exceeds ten pounds, and such person shall suffer imprisonment accordingly unless he shall sooner pay the fine. Default in payment of fines.

**132.** All fines recovered in respect of offences against the provisions of this Ordinance or of any other by-law shall be paid as to one-half into the revenues of the Council and as to the remaining one-half into the general revenue of the Colony. Appropriations of penalties.

**133.** The Clerk or any other person authorised thereto by the Council may prosecute in subordinate courts for all contraventions of this Ordinance or of any by-laws, and the provisions of any law relating to prosecutions by private persons shall apply to all such prosecutions. Conduct of prosecutions.

**134.** Any police officer may arrest without warrant any person who commits any offence against this Ordinance or any by-law in force within any district, and any officer of the Council in uniform or wearing a visible badge of office and authorised thereto in writing by the Council may arrest without warrant any person who in his presence commits any Powers of arrest.



such offence and may detain such person until he can be delivered into the custody of a police officer to be dealt with according to law :

Provided that no person shall be arrested or detained without warrant unless reasonable grounds exist for believing that, except by the arrest of the person offending, he could not be found or made answerable to justice without delay, trouble or expense.

Persons  
offending  
against order  
or notice to be  
deemed guilty  
of an offence.

**135.** When any matter or thing is by this Ordinance, or by any order or notice made and published under the authority thereof, directed or prohibited to be done, or where any authority is given by this Ordinance to any person to direct or prohibit any matter or thing to be done, and such act so directed to be done remains undone or such act so prohibited to be done is done, then in every such case every person offending against such direction or prohibition shall be deemed to be guilty of an offence against this Ordinance.

Books of  
Council to be  
*primâ facie*  
evidence on  
sums due.

**136.** The books and registers of any Council and any extracts therefrom certified by the Clerk or other officer authorised thereto by such Council shall in any proceedings for the recovery of any rates or charges for any service be *primâ facie* evidence of the amounts so due.

Contraventions  
of Ordinance  
or by-law by  
company or  
partnership.

**137.** If any contravention of this Ordinance or of any by-law is committed by a company or partnership, every managing director or person having the management or control, in the Colony, of the business or property in the case of a company, and every such person and each partner in the case of a partnership, shall be responsible therefor, and shall be liable to the punishment prescribed for such contravention :

Provided that nothing in this section shall be deemed to exempt from liability any other person guilty of any such contravention.

Actions  
against a  
Council.

**138.** All actions against any Council shall be brought within six months from the date upon which the causes of such actions arose, and all such costs, charges and expenses as the Council may be put to or may become chargeable with by reason of the prosecution or defence of any such action or under the judgment of any court shall be paid out of the revenues of the Council.

#### *Miscellaneous.*

Power of  
officers to  
enter premises.

**139.** (1) Any Council or any officer of any Council duly authorised in writing may, at all reasonable times, enter into and upon any premises within the district for the purpose of exercising any power of inspection, inquiry, or execution of works which is given to the Council under this Ordinance or by any by-law or regulation in force within the district.

(2) The Medical Officer of Health or any sanitary inspector may, when entering into or upon any premises in exercise of the powers conferred by this section, be accompanied by an European member of the police force.

(3) Any by-law made under this Ordinance may confer on the Council its officers and servants, such powers of inspection, inquiry, and execution of works as may be reasonably necessary for the proper carrying out or enforcement thereof.

**140.** The following persons shall be liable to a fine not exceeding twenty pounds or to imprisonment of either description for a period not exceeding three months :—

Obstructing  
officers.

- (a) Any person who wilfully obstructs any member of any Council or any officer or servant of a Council in the execution of his duty as such ;
- (b) Any occupier of premises who prevents the owner of such premises from complying with any of the requirements of a Council ;
- (c) Any occupier of premises who, on demand, refuses or wilfully omits to disclose or wilfully misstates the name of the owner of such premises ;
- (d) Any person who refuses to answer to the best of his ability or knowingly makes false answers to inquiries made by the Medical Officer of Health or any sanitary inspectors specially authorised by him in writing for the purpose of discovering cases of any infectious disease or possible sources of infection of any such disease.

**141.** Nothing in this Ordinance shall be deemed to override the provisions of the Public Health Ordinance or any Ordinance amending or replacing the same.

Saving of  
Public Health  
Ordinance,  
Cap. 124.

**142.** The Governor in Council make make Rules for the purpose of exercising adequate control over works carried out under this Ordinance, the cost of which is met either wholly or partly from Government grants, and more especially in regard to the following :—

Power to  
make Rules.

- (1) For providing for the making of investigations and surveys by Government officers in connection with such works ;
- (2) For providing for the inspection of such works under construction, and defining the powers and duties of inspecting officers ;
- (3) For providing for the adoption by District Councils of standardised designs and specifications for such works, and for materials used in the construction thereof ;
- (4) For providing for the adoption by District Councils of standardised contract documents to be used in connection with such works ;
- (5) For providing for the methods to be adopted for the purchase by District Councils of goods and materials required for such works.

## OBJECTS AND REASONS.

This Bill is designed to give effect to the recommendations contained in the report of the Local Government Commission, 1927, in so far as they concern rural areas.

Part I of the Bill relates to the establishment of Districts and to the constitution of District Councils.

Provision is made for the Governor by proclamation to declare districts, constitute councils for such districts, assign names and define or alter the boundaries of such districts and to divide the district into wards and polling districts: Provided that, before these powers are exercised by the Governor, an inquiry shall be made by the Commissioner for Local Government, whose report shall be submitted to the Governor through the Standing Committee (established under section 125 of the Local Government (Municipalities) Ordinance, 1928).

Part II deals with the qualifications and registration of voters, the qualifications of candidates and generally with the election machinery.

Part III provides for the appointment of officers and for the payment of salaries and allowances to such officers by the Council. The appointment and termination of appointment of officers as Clerk, Treasurer, Engineer or Medical Officer of Health are subject to the Governor's approval.

Part IV deals with the meetings and proceedings of District Councils.

Part V contains the powers and duties of District Councils. Provision is included enabling District Councils to acquire, hire, erect and maintain such offices and buildings as may be required for the purposes of the Council and, subject to the consent of the Governor, to grant from the revenues of the Council pensions or gratuities to officers or servants on their retirement from the service of the Council. Provision is also made for a Council, subject to the approval of the Governor in Council, to make grants of money towards the establishment and maintenance of schools, hospitals and dispensaries, and to provide bursaries to assist parents in the district to educate their children. Provision is also included in regard to the construction and maintenance of roads. A classification of roads into main trunk and district roads is provided and district roads are placed under the control of District Councils which are also empowered to make by-laws for certain definite purposes and the procedure in regard thereto is prescribed. A District Council may also apply to be declared the Local Public Health Authority in its area.

Part VI deals with the powers of taxation of the Councils and prescribes certain safeguards which must be fulfilled before these powers are exercised. Rating procedure and method of preparing valuation rolls are also prescribed.

Part VII deals with the general financial provisions; prescribes the basic road grant to be made by Government and the machinery for obtaining additional road grants. It also deals with the questions of Loans, the framing of Annual Estimates, books of accounts and audit by a local government inspector.

Part VIII deals with the central organization and provides that Councils shall submit to the Commissioner for Local Government annual reports, certified copies of any record or minutes of their proceedings, and of the accounts and any other documents that the Commissioner for Local Government may from time to time require. It is also provided that the Commissioner for Local Government shall render to the Governor a comprehensive annual report upon the affairs and activities of all Councils constituted by or under this Bill.

Part IX gives the Governor powers to nominate Councils, pending a first election, and to dissolve Councils in certain circumstances. Power is given to the Governor in Council to reduce Government contributions in certain circumstances.

Part X contains provisions relating to legal procedure and certain miscellaneous provisions. The Governor in Council is given powers to make Rules under this Part for the purpose of exercising adequate control over works carried out under this Bill, the cost of which is being met either wholly or in part by Government grants.

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## GOVERNMENT NOTICE NO 404

## NOTICE.

His Excellency the Governor has approved of the following Bill being introduced into Legislative Council.

R. W. LAMBERT,  
*Clerk to the Legislative Council.*

**A Bill to Amend the Native Authority Ordinance.**

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

Short title.

1. This Ordinance may be cited as “ the Native Authority (Amendment) Ordinance, 1928,” and shall be read as one with the Native Authority Ordinance (Chapter 129 of the Revised Edition), as amended by the Revised Edition of the Laws (Operation) Ordinance, 1926, hereinafter referred to as “ the Principal Ordinance.”

2. Sub-section (1) of section 2 of the Principal Ordinance is hereby amended by the addition thereto of the following definition :—

“ The term ‘ District Commissioner ’ shall include an ‘ Assistant District Commissioner ’.”

Amendment of section 8 of the Principal Ordinance.

3. Section 8 of the Principal Ordinance is hereby amended by the insertion of the following words in the following places :—

In clause (m) after the word “ labour ” of the words “ by able-bodied adult males ”; in clause (n) after the word “ paid ” of the words “ able-bodied adult male ”; and in clause (o) after the word “ labour ” of the words “ by able-bodied adult males ”.

Penalty on natives for disobeying orders.

4. Section 10 of the Principal Ordinance is hereby repealed, and the following section is substituted therefor :—

“ 10. Any native who shall without lawful excuse disobey or shall fail to comply with any lawful order issued or given by a headman under this Ordinance, or by a senior commissioner or district commissioner under the powers conferred by the last preceding section, shall be guilty of an offence and shall, on conviction before a magistrate or before a native tribunal having jurisdiction over such native, be liable to imprisonment of either description for a period not exceeding two months, or to a fine not exceeding seven pounds ten shillings and in default of payment to imprisonment of either description for a period not exceeding two months, or to both such fine and imprisonment.”

Administrative officer may order natives occupying land outside a Native Reserve to remove into the Reserve.

5. Section 11 of the Principal Ordinance is hereby amended by the deletion of the first paragraph thereof and the substitution therefor of the following paragraph :—

“ Whenever a senior commissioner or district commissioner shall find that any native, being a member of a tribe or community for the occupation of which land has been reserved, is cultivating or occupying any land outside the lands so reserved, otherwise than by virtue of a valid contract or other lawful authority, he may order such native to remove from such land on to land reserved for the tribe or community to which such native belongs.”

6. Sub-section (3) of section 26 of the Principal Ordinance is hereby repealed, and the following sub-section is substituted therefor :—

Amendment of section 26 of the Principal Ordinance.

“(3) Such imprisonment or fine shall not operate as a satisfaction or extinguishment of any local native rate payable under this Ordinance and any such local native rate shall, on application made to any magistrate by any member of a local native council, be recovered as if it were a fine imposed by the magistrate and shall as it is recovered be paid into the local native fund.”

7. Section 30 of the Principal Ordinance is hereby repealed, and the following section is substituted therefor :—

Disposal of council's funds

“30. (1) A local native fund shall be devoted only to such purposes as may be prescribed by any resolution which has been approved by the Governor under section 26 :

Provided that in any case where Government has expended public funds or incurred any liability in consideration of a resolution of a local native council by virtue of which the local native council has undertaken to pay to Government a capital or recurrent contribution from a local native fund, the Governor in Council may, if such local native council refuse or fail to make due payment in accordance with such resolution, order that such payment be made from such local native fund and may further order that any rate necessary to produce the sum required be levied on and collected from the inhabitants of the area in which such local native council is established.

(2) The provisions of sub-sections (2) and (3) of section 26 of this Ordinance shall apply to a rate imposed under this section in the same manner as if it had been imposed by a resolution of a local native council and approved by the Governor in Council.”

#### OBJECTS AND REASONS.

It is proposed by this Bill to introduce certain amendments into the Native Authority Ordinance which experience has proved to be desirable.

Clause 4 provides for the amendment of the law so as to enable peremptory imprisonment to be imposed for disobedience to the lawful order of an administrative officer or headman. The existing law provides for the imposition of a fine only and this has been found to be ineffective as a deterrent, especially in the case of male adult natives who endeavour to evade calls for communal labour by sending their women or children in their stead, and rely on the proceeds of produce raised by the women to pay any fine that may be imposed.

Clause 5 provides for the extension of the section which enables natives who are found occupying land outside a Reserve to be ordered to remove into the Reserve. The existing law applies only where a native is found in occupation of “unalienated Crown land.” It is now proposed to extend the section so as to apply to the occupation of *any* land, whether alienated or not, unless such occupation is lawful by reason of a contract (*e.g.* under the Resident Native Labourers' Ordinance, 1925) or other lawful authority.

Clause 6 provides a method of recovery of a local native rate payable under the Principal Ordinance. The law already provides that imprisonment or the imposition of a fine shall not operate as a satisfaction or extinguishment of a rate and it is now proposed that the law should definitely provide that any amount due may be recovered by distress.

Clause 7 is intended to safeguard Government against the possibility of a local native council, after having induced Government to enter into commitments of expenditure relating to education or any other scheme, refusing or failing to continue the payments which it has promised.