COLONY AND PROTECTORATE OF KENYA

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Report of the Working Party Appointed to Consider Elections under the Lancaster House Agreement

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His Excellency Sir Patrick Muir Renison, K.C.M.G.,
Governor and Commander-in-Chief of Kenya,
Nairobi.

Your Excellency,

We the undersigned, members of the Working Party appointed by Your Excellency to recommend within the principles set out in the Report of the Kenya Constitutional Conference, 1960, the rules which should govern the registration of voters, the qualification and nomination of candidates and the election of Members to the Legislative Council, including the delimitation of constituencies, have the honour to submit our report.

We have the honour to be
Your Excellency's
most obedient servants,

W. F. COUTTS,
E. N. GRIFFITH-JONES.

Nairobi,
8th June, 1960.

REPORT OF THE WORKING PARTY APPOINTED TO CONSIDER ELECTIONS UNDER THE LANCASTER HOUSE AGREEMENT

I—INTRODUCTION

Terms of Reference and Procedure

Arising out of the Conference held at Lancaster House in February, 1960, you appointed us (the Chief Secretary and the Attorney-General of Kenya) as a Working Party to recommend, within the principles set out in the Report of the Kenya Constitutional Conference, 1960, the rules which would govern the registration of voters, the qualification and nomination of candidates and the election of Members to the Legislative Council, including the delimitation of constituencies.

We have taken into consideration as a gloss on these terms of reference the last part of paragraph 17 of the same Report, which reads as follows:—

> "It might be appropriate that representation should be based on districts, with special provision for the major towns: but that in the larger or more populous districts, and in some urban areas, there might be multi-member constituencies. In this event it would follow that some of the less populous districts might have to be combined into one constituency. The Working Party would be asked to ensure so far as possible that the reserved seats were appropriately distributed throughout the country."

As a Working Party we considered the question of procedure and decided that partly in view of the necessity for submitting our report quickly and partly because of our other commitments it would not be possible for us to tour the country and hear oral evidence from members of the general public. With your consent, however, we agreed that members of the public should be asked to submit memoranda containing their views and in the event a notice was published to this effect. A copy of the notice is attached at Appendix I.

We also decided that in view of the fact that all the various political groups had been represented at the Lancaster House Conference we should hold a series of meetings with these parties. We therefore interviewed the African Elected Members' Organization, the Asian and Arab Elected Members' Organization, the European Elected Members' Organization, the New Kenya Group, the Specially Elected Members' Organization and the United Party. During these meetings submissions were received from some quarters that the proposed system of primary elections for reserved seats set out in paragraph 15 (*a*) (i) of the Report of the Conference was not satisfactory and that we, as a Working Party, should recommend a return to communal voting. It was necessary for the Working Party to point out to those people who made such submissions that any major variation of the Lancaster House Agreement such as that proposed was not within our terms of reference and that if the parties wished to make such submissions it would be necessary for them to present them to the Secretary of State for the Colonies through you.

A number of Memoranda were received and studied and a list of such Memoranda is attached at Appendix II.

II—THE PAST

Until the present time European, Asian and Arab voting, and the elections of Members of these races to the Legislative Council, have been governed by the Legislative Council Ordinance contained in the Laws of Kenya as Chapter 38.

The laws governing voting for and the election of African Members to the Legislative Council are contained in Ordinance No. 10 of 1956—the Legislative Council (African Representation) Ordinance, 1956.

Apart from certain similarities regarding the qualifications and disqualifications of candidates and electors, the law in respect of the elections to Legislative Council for the European, Asian and Arab races has differed very considerably from that relating to African elections. European and Asian elections were conducted on the basis of universal adult franchise on communal rolls. In the case of Arabs there was adult male franchise. For Africans there was a qualitative franchise and a system of multiple voting. Throughout Kenya, until the time of the submission of this Report, all constituency elections have been based on communal registration.

At Lancaster House it was proposed, and set out in paragraph 15 of the Report of the Conference, that in future there would be 53 Members of the Legislative Council elected on a common roll and 12 other Members who would be designated "National Members". In considering the recommendations which are contained in this Report, our thinking has naturally been conditioned by the fact that a common roll will now be introduced in Kenya.

Recommendation

We recommend that in due course a new comprehensive Ordinance giving legal effect to the recommendations contained in this Report should be introduced into the Legislative Council. As, however, time is short and the passage of a Bill through Legislative Council would take several months, we further recommend that the necessary legal provisions for the registration of voters and the delimitation of constituencies should be contained in a "pilot" Order in Council and regulations made thereunder, pending the enactment (in time for the elections themselves) of a new and comprehensive Ordinance governing elections and of the main Order in Council.

III—THE PROBLEMS

A—Constituencies

As a result of the Lancaster House Conference, 20 out of the 53 common roll seats mentioned above have been designated "reserved seats". These seats are to be divided between the minority communities as follows: ten European, eight Asian and two Arab seats. It should also be remembered as stated in paragraph 1 that we must ensure as far as possible that the reserved seats are appropriately distributed throughout the country. This, therefore, immediately poses the question of whether the reserved constituencies should be superimposed on open constituencies, or be entirely separate therefrom, or be combined therewith in multi-member constituencies.

After having considered the various submissions made to us, we believe that as a general principle it would be best to provide for separate constituencies for open and reserved seats, based as far as possible on administrative districts and geographical areas. It follows naturally that, as was indeed said in the Report of the Conference, some districts and some areas may have to be combined for the purpose of forming constituencies, but we think that the principle we have adopted is correct.

It has also been necessary to take into consideration the question of population, area and communications and to give to those areas which are more heavily populated than others more than one seat. This means that there will be some multi-member constituencies.

One of the problems before us was the question of whether or not, having decided on (some) multi-member constituencies, there should also be (some) multi-racial constituencies, by which we mean the combination of reserved seats for different races, or reserved and open seats, in one constituency. It must be appreciated that if multi-member-multi-racial constituencies are devised, particularly if open seats are combined with reserved seats in the same constituencies, there is a very fair probability that each race will vote on the common roll for its own racial candidates. It seems to us that the general principles enunciated at Lancaster House for the franchise were laid down with a view to eliminating purely racial voting. Having this in mind, therefore, we consider that, as far as possible, the constituencies should be geographical, and multi-member where appropriate, but should preferably *not* be multi-racial in order to avoid racial voting. It is of course implicit in any electoral system based on a common roll that persons of one race are represented by persons of another race.

We attach in Appendix III proposals for the distribution of all seats. It will be observed that in so far as the open seats are concerned, we have tried as far as possible to consider individual districts, the distribution of population, area and communications.

We therefore recommend that—

(*a*) constituencies should, as far as possible, be based on district and geographical areas, but where multi-member constituencies are created they should not also be multi-racial constituencies;

(*b*) the constituencies and seats for the next elections should be as set out in Appendix III.

B—Primary Elections for Reserved Seats

It was apparent to us that the primary elections which were proposed in paragraph 15 (*a*) (i) of the Conference Report caused considerable concern to the communities to which reserved seats are to be allocated. There was a widespread desire that the arrangements for primaries should ensure that candidates without genuine support within their own communities should not be allowed to stand for the reserved seats. On the other hand, it is clear that primaries are not intended to be a pre-election whereby the members to occupy the reserved seats would be pre-selected at the primaries by the communities for whom those seats are to be reserved. Any such pre-election would render the subsequent common roll elections a meaningless formality, and would indeed be the negation of the system of common roll elections projected in the Conference Report. The purpose of the primaries is expressed, in the paragraph mentioned above, as follows: ". . . in order to ensure that the candidates elected command the effective and genuine support within their own community." The phrase "effective and genuine support" does not necessarily connote majority support. The question to be decided is, in effect, what minimum constitutes "effective and genuine support."

We have received submissions to the effect that the minimum percentage of votes to be obtained by a candidate in order to succeed in a primary should be fixed in relation to the total number of registered voters in the constituency entitled to vote in the primary and the number of candidates for election presenting themselves for endorsement at the primary. For instance, it was suggested that, where there are only two candidates, the percentage should be 40 per cent of the number of registered voters, and that, where there are more than two

candidates, the percentage should be 80 divided by the number of candidates. Thus, where there are four candidates the percentage would be 20 per cent, and if a larger number of candidates submitted themselves, the percentage would be even lower. These suggestions were based on the assumption that each voter would have a single vote.

We were not, however, convinced that such a system, under which the percentage could be reduced by the introduction of several purely nominal candidates, would ensure that candidates had "effective and genuine support" within their own communities, and we considered that such a system could be used as a pre-election rather than an endorsement of candidature. Neither did we consider that the percentage to be fixed should be fixed in relation to the total number of registered voters irrespective of the number which saw fit to exercise their votes.

We therefore considered that registered voters who exercised their votes should do so by expressing their opinion on the candidature of each candidate, i.e. by voting "yes" or "no" against the name of each candidate. A count of the "yes's" recorded for each candidate should be expressed as a percentage of the total number of persons voting (excluding spoilt or invalid voting papers). The purpose of the primary being to endorse the candidature of candidates who would proceed to contest the subsequent common roll elections, we considered that any candidate who receives endorsement by 25 per cent or more of the persons voting should be eligible to go forward to contest the common roll election. At first sight it may appear that a higher percentage should be prescribed. On considering statistics, however, we found that in, for example, the present European Nairobi South constituency, the total number of registered voters is approximately 4,000; if there were an 80 per cent poll in a primary in an equivalent constituency, the number of voters would be 3,200, of which figure 25 per cent would be 800. We consider that this figure could not reasonably be dismissed as less than "effective and genuine support" for the purposes of a primary. Similarly, in the present Asian non-Muslim Central Area constituency, 25 per cent of an 80 per cent poll would amount to over 5,700 voters, which again, we feel, must be regarded as "effective and genuine support" for the purposes of a primary. If only one candidate receives 25 per cent or more, he alone should be qualified to go forward to the common roll election, for the purposes of which he would therefore be elected unopposed. If no candidate receives as much as 25 per cent support, the position will be that there is no real consensus of opinion among the voters, the primary will have failed to fulfil the purpose for which it is intended, and accordingly *all* candidates should be qualified to contest the common roll election. We are convinced that if a primary proves wholly inconclusive, all candidates should be allowed to go forward because the failure of a community to demonstrate effective support for any candidate should not result in the common roll electorate being deprived of elected representation.

By this system, we feel, the true purpose of primaries would be fulfilled, in that each voter would be asked, not to select only one candidate—which would be tantamount to a pre-election—but to express his acceptance or rejection of the candidature at the subsequent common roll election of each person offering himself in the primary; only if the primary failed to produce contesting candidates with what we regard as the minimum of support constituting "effective and genuine support" would any single candidate who had achieved that minimum support be elected unopposed; and only if the primary proved wholly inconclusive would a candidate or candidates be allowed to go forward without that minimum support, the primary having wholly failed in such a case to achieve its purpose.

We therefore recommend that—

(i) ballot papers at primary elections should bear the names of all persons offering themselves for nomination as candidates for the subsequent common roll elections;

(ii) each person voting should be required to enter "yes" or "no" against each name on the ballot paper; incomplete ballot papers would be rejected;

(iii) at the count of the poll, the "yes's" against each name should be counted and expressed as a percentage of the total number of valid ballot papers;

(iv) the candidature of any candidate securing 25 per cent or more should be declared as endorsed by the voters in the primary, and that candidate should be declared as nominated to contest the common roll election;

(v) if only one candidate has secured 25 per cent or more, then the candidature of that one candidate should be declared as endorsed by the voters in the primary, and that candidate should be declared as elected unopposed;

(vi) if no candidate has secured 25 per cent, all candidates participating in the primary should be declared as nominated to contest the common roll election, and if there is only one candidate he should be declared as elected unopposed.

C—National Members

The proposals regarding National Members are set out in paragraph 15 (*a*) (iii) in the Report of the Conference. It will be remembered that it was decided that there should be 12 National Members who would be elected only by the Elected Members of Legislative Council. In the Paper known as Command 309, which was issued in November, 1957, and which commented on what was known as "The Lennox Boyd Constitution", it was stated that the creation of additional seats, i.e. Specially Elected Members, was "to reduce the disparity between the Government and non-Government sides of the House and to provide a place in Legislative Council for Ministers who draw support from more than one community". Although this quotation refers specifically to Ministers, the underlying concept was that Members of this category, whoever they might be, should have support from all communities. It has been submitted to us, therefore, that candidates who wish to stand as National Members should be proposed by two persons from each of the three main racial Groups in Legislative Council, i.e. European, Asian (including Arabs) and African. The African Elected Members submitted that this was not necessary, more particularly in view of the Lancaster House proposal that the National Members should be elected by using proportional representation with a single non-transferable vote except in the contests for single seats. Having given this problem careful consideration, however, and bearing in mind that it will not be possible for a candidate to draw support from Nominated Members of communities other than his own, as it was in the case of elections for Specially Elected Members' seats, we feel very strongly that the main principle should be maintained and that each candidate for the National seats should have minimum support from all three racial Groups. We consider that support by less than two members of each Group would not adequately serve the principle mentioned above, and we accordingly accept the submissions made to us in this regard and recommend that each candidate for election as a National Member should be supported by at least two members of each Group of Constituency Members, i.e. the "open seat" Group, the European "reserved seat" Group and the Asian/Arab "reserved seat" Group.

We have also considered the reference in the Report of the Conference to the fact that proportional representation is inapplicable to contests for single seats. As you are aware, the National Members will be divided into four Africans, four Europeans, two Asian non-Muslims, one Asian Muslim and one Arab. We consider that there should not be contests for single seats but that the voting should be as originally proposed, by proportional representation with a single non-transferable vote in Groups as follows:—

Four Africans,
Four Europeans,
Four Asians (including the one Arab).

This may mean that the members in the Asian/Arab Group, and particularly the one Asian Muslim and the one Arab, could be elected by relatively fewer votes than the members in the other Groups. Nevertheless, subject to our suggestion below regarding a minimum number of votes, we consider that the same system of election as for the other two Groups should be provided for in the Asian/Arab Group, since in a single-seat contest, and to a lesser extent in a double-seat contest, a candidate, in order to succeed, would have to secure a much larger number of votes than under proportional representation in Group elections, and this, we feel, would be an unfair differential. We consider, however, that no candidate in any Group should be allowed to succeed in a contested election unless he has received at least one-eighth of the total votes, i.e. seven votes. If, therefore, no candidate is elected with at least seven votes to any seat in any Group, we consider that there should be a fresh ballot for that seat alone (unless, of course, there is only one candidate therefor, in which event he would be declared elected unopposed).

We have also very carefully considered whether or not it would be in the best interests of the country to allow Constituency Members of the Legislative Council to stand as candidates for National seats. After careful consideration and bearing in mind the labour and expense involved in by-elections, we have come firmly to the conclusion that Constituency Members should be disqualified for standing as candidates for National seats. An intending candidate must opt whether to stand for a constituency or a National seat; if, having been elected for a constituency, he wishes to "convert" to a National seat, he must first resign his constituency seat and then take his chance on failure to secure a National seat.

We therefore recommend that—

(*a*) bearing in mind the other qualifications set out in this Report, candidates for seats as National Members should be proposed and seconded by Constituency Members, and supported by not less than four nor more than seven such Members, and that, of the proposer, seconder and supporters, two must be drawn from each of the three main Groups;

(*b*) no Constituency Member of the Legislative Council should qualify to stand as a candidate for a National seat.

IV—QUALIFICATIONS AND DISQUALIFICATIONS

A—Qualifications of Electors

In previous elections in Kenya persons have had to be 21 years of age before they can vote. They have also had to be British subjects or British-protected persons, with, however, special exceptions in favour of citizens of the Republic of Ireland and of certain Asians who were under the suzerainty of the Crown

before the partition of India and Pakistan in 1947. We consider that the age qualification of 21 years should be maintained and that for the future voters should be required to be British subjects or British-protected persons, but, in order to avoid disenfranchising Irish citizens, and the Asians mentioned above, who are at present registered as voters, we recommend that registration as a voter at present should be an alternative to this "nationality" qualification. Further qualifications have been laid down in the Report of the Lancaster House Conference, paragraph 15 (*a*) (ii). These are as follows:—

(i) *Ability to read and write in one's own language.*—In considering this point we decided as a Working Party to recommend that the language should be either the native language of the person concerned or English or Swahili, since not all literate persons are necessarily literate in their native languages. It should be noted that an alternative to this qualification, if the person is illiterate, is that he or she should be over 40 years of age. It is proposed that in default of documentary evidence regarding age, and particularly in the African Land Units, the District Commissioner should specify the age-grade which would qualify. Registration Officers will then have to muster a Committee of local Elders to advise them on whether or not applicants are of that, or a more senior, age-grade.

(ii) *Office-holders in wide range of scheduled posts at the time of registration.*—The Working Party considered this proposed qualification and came to the conclusion that there would be very few people who were office-holders in any possible range of posts and who did not otherwise qualify under the alternative qualifications. Nevertheless, in order to comply with the proposals laid down at Lancaster House, a suggested list of posts is attached at Appendix IV.

(iii) *Income £75 per annum.*—The immediate question regarding income was whether or not a wife who does not otherwise qualify in her own right could qualify on her husband's income. After full consideration the Working Party felt that a wife should so qualify. In the case of a plurality of wives, it was felt that the husband should have to show an income of £75 for each wife in excess of one.

Although not laid down in the relevant section of the Report to which we have referred above, it is normal for a property qualification to be laid down as an alternative to an income qualification. It will be appreciated that in many parts of Kenya citizens who are normally pastoralists rather than agriculturalists may own much property but be unable to show that they are in receipt of as much as £75 per annum in income. We therefore consider that there should be an alternative qualification of property to the value of £350.

It is normal also for electors to have a residential qualification in the constituency in which they register. We consider that no person should be registered who has not resided or carried on business or been employed in the electoral area in which he seeks to register for a period of at least three months immediately preceding the date of his application for registration. We have also considered the position of a person who is not resident in the area which he would normally regard as his home, and we consider that there should be an alternative residential qualification for registration. We think that a person should be allowed to register where he owns property, i.e. a house or land, or where he resides, carries on business or is employed. In all cases, the rule that he should have possessed the qualification for three months immediately preceding the date of his application for registration must apply.

Apart from more specific and personal qualifications, it is common practice, which has been followed hitherto in Kenya, to impose a general qualification of a minimum period of ordinary residence in the country before a person can become eligible for registration as a voter. We accordingly consider that there should be such a general qualification in Kenya and that it should take the form of a requirement that an applicant for registration as a voter should have been ordinarily resident in Kenya for at least the 12 months immediately preceding the date of his application for registration. We use the phrase "ordinarily resident" to connote residence which is regarded as continuous notwithstanding purely temporary absences.

We therefore recommend the following qualifications—

(i) ordinary residence in Kenya for at least 12 months immediately preceding application for registration; and

(ii) age 21 or over; and

(iii) British subject or British-protected person or registered as a voter at present; or

(iv) a residential qualification of not less than three months, by ownership of property, residence, business or employment, in the electoral area in which he registers as a voter; and

(v) (*a*) ability to read and write in own language or Swahili or English, or of more than 40 years of age; or

(*b*) office-holder in a wide range of schedule posts as in Appendix IV; or

(*c*) income of not less than £75 per annum; or

(*d*) property valued at not less than £350.

B—Disqualification of Electors

We recommend that the following disqualifications should apply to electors, namely, that a person shall be disqualified—

(i) if he has been, and still is, certified to be insane or otherwise adjudged to be of unsound mind under any law in force in Kenya;

(ii) if he is detained as a criminal lunatic under any law in force in Kenya;

(iii) if he is an undischarged bankrupt having been adjudged or otherwise declared bankrupt under any law in force in any part of the Commonwealth;

(iv) if he is serving a sentence of imprisonment for a term of or exceeding 12 months for a criminal offence of which he has been convicted;

(v) if he is suffering from any disqualification provided by the Election Offences Ordinance, 1958 (No. 11 of 1958).

C—Qualifications of Candidates

As hitherto, a candidate should be a registered voter, and be able to read and write and speak English with reasonable proficiency in order to enable him, if elected, to perform his functions in the Legislative Council. For the purposes of proficiency in English, we suggest that the qualification should be—

(i) that he has at any time been a member of the Legislative Council; or

(ii) that he possesses a degree from any university where the medium of instruction is English or a diploma of Makerere College, or that English is his native language; or

(iii) that he satisfies a Language Board that his knowledge of the English language is sufficient to enable him to take an active part in the proceedings of Legislative Council.

We also consider that a candidate should have at least two years' ordinary residence in Kenya immediately preceding nomination.

It is normal for all candidates to be proposed, seconded and supported by other electors. We consider that candidates should be proposed, seconded and supported by not less than seven and not more than 12 persons other than the proposer and the seconder. The persons who propose, second and support the candidates must be people who are registered as voters in the electoral area for which the candidate is nominated.

We therefore recommend that a candidate should—

(i) be a registered voter;

(ii) be able to read and write and speak English with reasonable proficiency, in accordance with the alternative criteria proposed above;

(iii) have been ordinarily resident in Kenya for a period of at least two years immediately preceding nomination;

(iv) be proposed and seconded by, and supported by not less than seven and not more than 12, voters registered in the electoral area for which he is nominated.

D—Disqualification of Candidates

We recommend that any person should be disqualified for election if—

(i) he is in the permanent employment of the Government or the High Commission or is serving the Government or the High Commission for a term of years;

(ii) he is an employee of a local authority;

(iii) he has been convicted of a criminal offence and has been sentenced to death or to imprisonment for a term of or exceeding 12 months in any part of the Commonwealth:

Provided that the Governor may, in his discretion, by order, remove this disqualification in any particular case;

(iv) he is in lawful custody, or is subject to police supervision in consequence of a valid order made under section 343 of the Criminal Procedure Code (Cap. 27) or is the subject of a restriction order made under or in pursuance of the Deportation (Immigrant British Subjects) Ordinance, 1949 (No. 37 of 1949), or the Detained and Restricted Persons (Special Provisions) Ordinance, 1960 (No. 3 of 1960).

(v) since registration as a voter, he has incurred any disqualification for such registration.

V—OTHER MATTERS

We have very carefully considered whether or not postal ballots should be continued. There has been in the past so much difficulty about the arranging of postal ballots, and in many cases so much exception has been taken to them with the result that a degree of instability has been introduced into the conduct of elections, that we consider that the time has now come when postal ballots should be abolished altogether.

We have dealt above with the main matters arising out of our terms of reference and we consider, in general, that the provisions of procedural and other detail should be on the lines of those in the Legislative Council (Constituency Elected Members) Bill, 1959, with necessary modifications and adaptations to conform to the new electoral system.

As regards registration, however, we have come to the conclusion that the only way of ensuring that the registration officer can satisfy himself that an applicant possesses the necessary qualifications is for the applicant to appear before him in person. When he has been registered, the voter should be issued by the Registration Officer with a voters' card. The card should show the voter's name as entered in the Register of Voters and the voter's number in the Register of Voters. Cards of distinctive design and colour should be issued to voters who are respectively—

(i) entitled to vote in the communal primaries as well as in the common roll elections; and

(ii) registered in the course of an annual revision of the Register of Voters (to facilitate the tracing, at the poll, of the particulars of voters in the Register and its annual appendices of new entries).

We suggest that these provisions should be included so as to eliminate as far as possible the difficulties over personation which have occurred in the past. Misgivings have been voiced about the possible misappropriation of voters' cards sent by post: we recognize that there is a real danger in this, and we consider that it is an additional argument for requiring that the voter should appear in person before the Registration Officer and receive his voter's card from him.

We therefore recommend that—

(i) postal ballots be abolished;

(ii) all other provisions relating to the procedure and detail of elections should be on the lines of the Legislative Council (Constituency Elected Members) Bill, 1959;

(iii) registration provisions should also follow the lines of the Legislative Council (Constituency Elected Members) Bill, 1959;

(iv) all registered electors should be provided with voters' cards.

Questions as to disputed elections have hitherto been decided by the Governor in Council of Ministers. We do not consider that, at the stage of development which the new electoral system will represent, it is any longer appropriate that this function should be performed by the Executive. We think that the time has come to transfer to the Courts the determination of questions relating to disputed elections.

Suggestions of major principle in some of the memoranda submitted to us have gone beyond our terms of reference, and are indeed in direct conflict with the decisions recorded in the Report of the Conference. We do not think, therefore, that it would be proper for us to comment on these proposals. We have pointed out to their authors, as we did to parliamentarians who made similar submissions orally, that if they wish their proposals to be considered, they should submit them to the Secretary of State for the Colonies through the Governor.

There is one point on which, although it relates to the tenure of seats after election, we think we should express our views as it is not unrelated to disqualifications. Considerable criticism has justifiably been directed at the existing provisions for the vacation of the seat of a member on his being sentenced for a criminal offence to imprisonment for six months or more. These provisions, lacking any qualification to take account of acquittal or reduction of sentence on appeal, can work injustice, as has already been demonstrated in one case in Kenya. Owing to the fact that one cannot set a term to the appellate processes, extending, as they do, potentially right up to the Judicial Committee of the Privy

Council, it has not been found practicable, in Kenya or elsewhere, to devise a suitable formula to cover every contingency in this regard. We recommend, therefore, that these provisions be re-cast to provide, in outline, as follows—

(i) on any member being convicted of a criminal offence and sentenced to death or to imprisonment for six months or more, he shall forthwith be automatically suspended;

(ii) such suspension shall continue until six months have elapsed or until the member, on appeal, is acquitted or has his sentence reduced to less than six months' imprisonment or to a lesser penalty than imprisonment, which ever is the earlier;

(iii) the Governor may, at any time during the period of any such suspension of a member, appoint a temporary member in his place;

(iv) if, within the period of six months' suspension the member is acquitted on appeal or has his sentence reduced as aforesaid, he shall be eligible to resume his seat, failing which, at the end of the period of six months he shall vacate his seat;

(v) there should be power in the Governor to extend the period of six months if necessary to allow for the determination of an appeal entered and pending or for the expiration of an unexpired statutory time-limit for appealing;

(vi) provision should be included to cover the case of a substituted conviction and sentence on appeal.

W. F. COUTTS,
E. N. GRIFFITH-JONES.

Nairobi,
8th June, 1960.

APPENDIX I

NOTICE TO THE PUBLIC INVITING MEMORANDA

His Excellency the Governor has appointed a Working Party consisting of the Chief Secretary and the Attorney-General to recommend, within the principles set out in the Report of the Kenya Constitutional Conference, the rules which should govern the registration of voters, the qualification and nomination of candidates, and the election of members to the Legislative Council, including the delimitation of constituencies.

The questions on which the Working Party will have to make recommendations arouse a good deal of public interest, and representations have already been received from various bodies offering to give evidence to the Working Party. The Working Party appreciates the public interest in the matters it is studying, and is convinced that valuable contributions to the solution of the problems confronting it may be offered by political parties, organizations, other public bodies and individual members of the public. On the other hand, it is clear to the Working Party that the new Constitution cannot be implemented until most of the questions which it is considering, particularly those relating to the registration of voters, are resolved, and it feels that it is in the best interests of the country that it should complete its task as soon as possible. It has, therefore, been decided, with the Governor's approval, that it will accept and study all written memoranda submitted to it, but that it will not hear oral evidence. The Working Party will, however, consult the Elected Members of Legislative Council in the performance of its task. If, therefore, individual members of the public wish to make their views known otherwise than by memoranda, they should do so through their Constituency Elected Members.

All Memoranda should be submitted to R. V. Rostowski, Esq., P.O. Box 30050, Nairobi.

APPENDIX II

LIST OF MEMORANDA

Memoranda have been received from:—

Mr. B. S. Biant.
Major C. M. Buxton, M.C.
The Convention of Associations.
Mr. A. T. Culwick.
The European Elected Members' Association.
The Kenya Freedom Party.
The Hon. F. J. Khamisi, M.L.C.
Dr. L. S. Leakey.
Mr. J. F. Lipscomb, O.B.E.
The Malindi District European Association.
Mr. D. G. Mehta.
Messrs. D. Mutwa, R. Mwilu, H. Mulli, F. M. Musyoki, F. J. M. W. Mukeka and F. M. G. Mati of Machakos.
The Nairobi Settlers' Association.
The New Kenya Group.
The Njoro Settlers' Association.
The North Nyanza African Nationalist Association.
Mr. G. W. Nthenge.
The Samia Union.
The Somali National Association.
The Western Nyanza African Congress.

APPENDIX III

PROPOSED DISTRIBUTION OF SEATS BY CONSTITUENCIES

	Open	European	Asian Non-Muslim	Asian Muslim	Arab
Nairobi (constituencies to be delimited)	1	3	2	1	—
Nairobi Suburban (settled area in N.E.P.D. except Nairobi City)	—	1	—	—	—
Kiambu (except settled area)	1	—	—	—	—
Nyeri (except Nyeri Town)	1	—	—	—	—
Nyeri Town	—	—	1	—	—
Embu	1	—	—	—	—
Meru	2	—	—	—	—
Machakos (except settled area)	2	—	—	—	—
Kitui	2	—	—	—	—
Kajiado	1	—	—	—	—
Narok	1	—	—	—	—
N. Nyanza	2	—	—	—	—
Elgon Nyanza	1	—	—	—	—
Central Nyanza (except Kisumu Town)	2	—	—	—	—
Kisumu Town	—	—	1	1	—
South Nyanza	1	—	—	—	—
Kisii	1	—	—	—	—
Kipsigis (Kipsigis A.D.C. area)	1	—	—	—	—
Kericho (settled area of Kericho District)	—	1	—	—	—
Fort Hall	2	—	—	—	—
Central Rural (Naivasha and Thika Districts and settled areas in Kiambu and Machakos Districts)	—	1	—	—	—
Nakuru (except Nakuru Town)	—	1	—	—	—
Nakuru Town	1	—	—	—	—
Trans Nzoia, Uasin Gishu	—	1	—	—	—
Nanyuki, Laikipia	—	1	—	—	—
Baringo, Samburu	1	—	—	—	—
Nandi	1	—	—	—	—
Elgeyo, West Suk	1	—	—	—	—
Protectorate (North and South Coast) except Mombasa District	—	—	—	—	1
Remainder of Tana and Lamu	1	—	—	—	—
Remainder of Kilifi	1	—	—	—	—
Remainder of Kwale	1	—	—	—	—
Taita	1	—	—	—	—
Mombasa District (constituencies to be delimited)	1	1	1	1	1
Northern Province West	1	—	—	—	—
Northern Province East	1	—	—	—	—

APPENDIX IV

SCHEDULE OF POSTS FOR QUALIFICATION AS ELECTORS

Members of Local Authority Councils including Locational Councils.

Subchiefs.

Tribal Police.

Note.—Posts bearing emoluments in excess of £75 per annum have been excluded.

G.P.K. 1563—1,000—6/60