



COLONY AND PROTECTORATE OF KENYA

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**SESSIONAL PAPER**  
**No. 9 of 1961**

**The Kenya Coastal Strip**  
**Report of the Commissioner**

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**Four Shillings - 1961**

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YOUR HIGHNESS,

I was appointed jointly by you and the then Secretary of State for the Colonies, the Right Honourable Iain Macleod, M.P., as a Commissioner with the terms of reference set out in paragraph 1 of my report.

2. I now have the honour to submit my report.
3. I am sending a similar letter to the Secretary of State.

I have the honour to be  
Your Highness' most obedient servant,

JAMES W. ROBERTSON (Sgd.)

London, 23rd November, 1961.

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# THE KENYA COASTAL STRIP

## REPORT OF THE COMMISSIONER

### I—INTRODUCTION

I was appointed jointly by His Highness Sir Abdulla bin Khalifa, K.B.E., C.M.G., Sultan of Zanzibar, and the Right Honourable Iain Macleod, M.P., the then Secretary of State for the Colonies, in September, 1961, to be a Commissioner with the following terms of reference:—

“To report to the Sultan of Zanzibar and Her Majesty’s Government jointly on the changes which are considered to be advisable in the 1895 Agreement\* relating to the Coastal Strip of Kenya, as a result of the course of constitutional development in East Africa.”

2. I flew to East Africa in October, arriving in Nairobi on Wednesday, 4th October, where I had talks with His Excellency Sir Patrick Renison, K.C.M.G., Governor of Kenya, and members of the Council of Ministers. I travelled to Zanzibar by air on the following day, and remained there until 8th October. During my stay in Zanzibar, I had interviews with His Highness the Sultan, with His Excellency Sir George Mooring, K.C.M.G., the British Resident, and with Ministers and officials of the Zanzibar Government. I also saw members of the Opposition and some private individuals. I arrived in Mombasa from Zanzibar on Sunday, 8th October, and from the 8th to 21st October I heard oral evidence in Mombasa and at other places on the Strip. I flew to Lamu on 12th October and later that day to Malindi, where I stayed until 14th October when I returned to Mombasa by road, stopping at Kilifi. On the following Tuesday, 17th October, I visited Vanga by road, and on Thursday, 19th October, motored to Msambweni, where I heard further oral evidence. On my way to Msambweni, I stopped at Likoni, Ngombeni, Waa, Tiwi, Diani and Ukunda, in order to hear the opinions of people in this area who had assembled in considerable numbers to greet me on the roadside. From Mombasa, I travelled by train on 21st October to Nairobi where I heard further evidence from Ministers, prominent members of the Opposition, officials and private individuals of Kenya, besides representatives of the Uganda Government and of the East Africa High Commission. I made a second visit to Zanzibar on Saturday, 28th October, and there I again saw the Sultan, his Ministers, and members of the Opposition. I returned to London via Nairobi on Wednesday, 1st November. In all, I saw 110 delegations comprising 546 persons and I also heard through their duly appointed spokesmen the views of an additional 5,000 or so persons at a dozen public meetings. Perhaps the most colourful of these meetings was one with five hundred Arab ladies at Mombasa but a gathering at Msambweni which, after some discussion, broke into song and dance, is also worth mention.

3. In both Kenya and Zanzibar I received verbal and written evidence from many sources of information, official and unofficial, including all sections of the communities on the Coastal Strip and their representatives. Memoranda and other documents prepared for me beforehand and during my stay in each place

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\* The text of the 1895 Agreement is given in Appendix A.

were of great assistance. Lists of the organisations and persons who submitted evidence, both oral and written, or who were consulted by me, are at Appendices B and C.

4. Both in Zanzibar and throughout my stay in Kenya all information relevant to my enquiry available to the Zanzibar and Kenya Governments was placed generously at my disposal. I desire, at the outset, to thank those Governments for their assistance, which has been of the greatest benefit to my enquiries. In view of the fact that all my formal sittings, with only one exception, were held in private and that most of the witnesses requested that all or part of their evidence should be regarded as confidential, I recommend that the evidence should not be made public.

5. I wish to express my warm thanks for the kindness and hospitality so generously accorded to me by Sir Patrick Renison, Sir George Mooring, and the Kenya and Zanzibar Governments and also by the various public bodies and individuals, both official and unofficial, in the two territories. In each territory the most careful arrangements for my transport, accommodation and office requirements were made. Everywhere the purposes of my visit were furthered in every possible way and I was given the warmest welcome by all sections of the community.

6. The Kenya Government attached to my enquiry three shorthand typists, Mrs. D. MacAvoy and Misses M. E. M. Judd and R. M. J. Wood, who accompanied me on my journeys and gave me the greatest help in recording the oral evidence which was given. Without their willing assistance and the long hours they worked, I should have been unable to hear so many witnesses in so short a time and to keep records of their evidence. On return to London the Colonial Office gave me every assistance to complete my report and I am grateful to Mrs. G. E. Livesley for typing out my many drafts.

7. Mr. W. T. Hull of the Colonial Office accompanied me as Secretary to the Commission, and made most satisfactory arrangements both for my travel and for my work. I could not sign this report without expressing my gratitude to him. His organising ability, his readiness to work long hours and his able assistance in putting so much material in order have made my task much easier. I have also been greatly assisted by his previous knowledge of the subject but, although I have, of course, discussed many of the matters contained in this Report with him, the recommendations which I make are entirely my own.

## II—THE HISTORICAL BACKGROUND

8. Three continents have contributed to the history of the coastal area of what is now Kenya, and from those contributions has emerged the cosmopolitan population found there today, consisting of Africans, Arabs and Swahilis (including a small number of Bajuni, who now reside within the Protectorate though their lands are outside it), Asians and Europeans. Apart from the period of strong Portuguese influence in the sixteenth and seventeenth centuries, the presence of Europeans as residents is comparatively recent and can be measured in decades. This European population is mainly British.

9. Arabs, Persians and Indians, on the other hand, have been present in the Coastal centres for as long as there is recorded history. Even so, Arab influence in the past seems to have been mainly confined to Coastal settlements and rarely to have extended for any length of time far inland. This limitation may have been partly from choice, since the Arab settlements had primarily a trading purpose, and partly for reasons of topography—the harsh, uninhabitable country

between the Coastal Belt and the hinterland, and the dreaded Masai warriors, being effective barriers to expansion inland. It is noteworthy that, until the construction of the railway line in modern times, the dry, unfriendly stretch of scrub land starting from twenty to thirty miles inland insulated the Coastal Belt from contact with the African interior more effectively than the oceans separated it from Asia and Europe, and it was undoubtedly for that reason that the slave trade routes and the early exploration of the hinterland started from Zanzibar through what is now Tanganyika and not from Mombasa.

10. There can be no doubt that in the narrow Coastal Strip itself there always was an indigenous population, more numerous than the Arabs, Asians and Europeans together, but of uncertain and changing tribal origins, and, in recorded knowledge, never sufficiently strong to be able to challenge the Arab or European overlordship. These Africans, through intermarriage with the Arabs, became the ancestors of the Swahili people and helped to create their language. The major tribes, e.g. Giriama, Duruma, Digo and Pokomo, now widely settled in the Coastal Strip, are of more recent arrival and probably moved south from Somalia under pressure from the Gallas and then from the Somalis. They have been settled in the Coast Province during the last two to five centuries but until recent years lived outside the actual Strip. Like the earlier African tribes they have never held, or until recently even seriously aimed at, overall political control.

11. Thus, apart from the period in the sixteenth and seventeenth centuries during which the Portuguese held a tenuous and hotly disputed upper hand, Arab control of the main Coastal centres continued until the nineteenth century. During the first half of that century, that control was extended and consolidated by H.H. Seyyid Said, Ruler of Oman, who in 1832 moved his Court to Zanzibar. Although he exercised little direct control or effective administration in the modern sense, his writ ran and his agents were established along the whole of what is now the Kenya and Tanganyika coastline and to a considerable but undefined extent his influence extended beyond it into the hinterland.

12. It was in the second half of the nineteenth century that the European powers came upon the scene. I need not enter into all the detailed history of the many arrangements made by the powers concerned (Britain, Germany, France, Portugal and Italy) both individually and together with successive Sultans of Zanzibar in the second half of that century. For the purpose of my enquiries, I have largely confined my consideration to the constitutional development of the Coastal Strip, and the facts relating to this are as follows.

13. The dominions of Zanzibar being formerly a dependency of Muscat, difficulties arose after the death of H.H. Seyyid Said between his two sons regarding their inheritance. These difficulties were referred for arbitration to the Governor-General of India, Lord Canning, and on 2nd April, 1861, he decided that the sons should divide their father's possessions, one, Seyyid Thuwainy, becoming Sultan of Muscat and Oman, and the other, Seyyid Majid, Sultan of Zanzibar, and at the same time he pronounced the independence of Zanzibar. Recognition of its independence was confirmed by Great Britain, France and Germany by a declaration in 1862. An Agreement of 1886 by Great Britain and Germany recognized the Sultan's sovereignty. In the previous year, however, Germany had acquired from a local Sultan, who had rebelled against the authority of the Sultan of Zanzibar, a "protectorate" over the Witu Sultanate. This comprised the Coastal areas north of the Tana River in what is now Kenya Colony, mainly in the present Lamu district (but not Lamu Island itself, which still remains part of the Coastal Strip and under the Sultan's sovereignty).



14. In 1886, the limits of the Sultan's mainland dominions were defined by agreement between Great Britain and Germany, namely, "the islands of Zanzibar and Pemba and the smaller islands within a radius of twelve nautical miles round those two islands, as well as the islands of Lamu and Mafia". On the mainland the limit recognised was "a continuous line of coast from the Minegani River at the head of Tungi Bay to Kipini . . . The line has an internal depth of ten nautical miles from the coast, measured direct into the interior from highwater mark. The northern limit includes Kau, and to the north of Kipini the stations of Kismayu, Brava, Meurka, Mogadisho with a radius of ten nautical miles, and of Washeikh with a radius of five nautical miles". The western boundary of the Sultan's mainland domain was thus quite arbitrary arising from the need of the nineteenth century treaty-makers to define in as precise terms as possible that which did not exist even approximately. In the Agreement of 1886, Great Britain and Germany also agreed upon spheres of influence and these resulted in the settlement of a boundary between the British East Africa Protectorate and German East Africa, which still exists today as the boundary between Kenya and Tanganyika.

15. On 24th May, 1887, the British East Africa Association received from H.H. the Sultan Seyyid Barghash bin Said of Zanzibar a concession for fifty years over all his mainland territories and dependencies from Vanga to Kipini inclusive, i.e. the present Coast Protectorate, for which they undertook to pay him the agreed sum of £11,000 a year. This was based on the estimated value of the Customs duties collected on the Kenya coast. The concession granted to the Association, the administration of these areas to be carried out in His Highness' name, under his flag and subject to his sovereign rights. It included the power to purchase public lands, levy taxes, appoint subordinate officers, pass laws for the government of the districts, establish Courts of Justice and exercise all the rights which the Sultan possessed over the lands in the whole of his territory on the mainland of Africa within the limits of the concession, only excepting the private lands or "shambas". Within the ten-mile strip as defined in the Agreement referred to above, the concessionaires flew the Sultan's flag and administered their concession in his name. But these limits did not mark the boundary of their activities. They sent their officers into the hinterland within the British sphere of influence, and made agreements with various tribes, and up to 1891 operated as far inland as Uganda, from which they withdrew in 1892. Shortly after obtaining their concession, the Association presented a petition to Her Majesty the Queen for the grant of a Charter. This petition was granted in 1888 and a Royal Charter was vested in the Association under the name of Imperial British East Africa Company.

16. On the 4th August, 1890, the British Government passed the Foreign Jurisdiction Act of 1890. This Act provided a legal system of government over foreign countries which were, or might come, under the jurisdiction of the British Crown, the preliminary step to the exercise of such jurisdiction being the notification of a Protectorate. Meanwhile, negotiations had been taking place between the British and German Governments relating to the possible exchange of Heligoland for the German Protectorate over the Sultanate of Witu. This Agreement was conducted and the first Protectorate proclaimed by the British Government was in fact that over Witu. Notification to this effect was published by the Foreign Office on 19th November, 1890, and in the following year an Agreement was entered into between the British Government and the Imperial British East Africa Company respecting the administration of the territory of Witu by the Company. On 31st July, 1893, however, the Company withdrew from the administration of the Witu area between the rivers Tana

and Juba, and on the same day the following proclamation was issued by Her Britannic Majesty's Agent and Consul-General at Zanzibar:—

“Be it know to all whom it may concern, that the Imperial British East Africa Company having resigned the administration of the British Protectorate north of the Tana, with the exception of the territories belonging to the Sultan of Zanzibar, which the Company still retains, it falls to Her Majesty's Government to make further arrangements for the administration of the Protectorate:

“And that they have decided during pleasure to delegate the administration to their trusted friend, Seyyid Hamed bin Thwain, Sultan of Zanzibar, who has accepted the responsibility.

“The Protectorate is not incorporated in His Highness' dominions, but remains independent of, and distinct from, them.”

17. For numerous reasons the Imperial British East Africa Company found it impossible to work its remaining concessions and began negotiations with the British Government to sell its undertakings. Eventually, in 1895, the British Government agreed to take over the property rights and assets of the Company. They took the view that the Company was properly entitled to compensation for its assets and for all it had done in administering the Coast, and decided that a sum of £200,000 paid earlier by the German Government to the Sultan for the Tanganyika part of the Sultan's Coast, and which had been deposited in London and invested in 3 per cent. Consols, should be paid to the Company with the sum of £50,000 added by the British Government. The Sultan thus recovered the Coastal Strip from the Company who received £250,000 in compensation. But the British Government also considered that the Sultan was in no position to administer the territory in respect of which the Company was surrendering its concession and proclaimed on the 15th June, 1895, that a British Protectorate would be declared over all areas from which the Company was about to withdraw. In coming to this decision the British Government were also of the opinion that the clock could not be put back and Mr. (later Sir) Arthur Hardinge, the British Agent and Consul-General, in his despatch of 25th June, 1895, reported that he had informed the Sultan of the following additional reason for the decision:—

“The effect of the Company's system of Government had been to weld together the ten-mile coast strip belonging to His Highness and the interior so closely that the administration of the two could not be divided. Moreover, even if this were not the case, there were customs and transit difficulties in the way of their separate treatment.”

The formal transfer of authority took place on 1st July, 1895, at Mombasa, on 8th July at Lamu, on 9th July at Kismayu.

18. At the Mombasa “baraza”, where this decision was announced, Sir Lloyd Mathews, the Wazir of the Sultan, made the following proclamation:—

“I have come here today by order of our Lord, Seyyid Hamed bin Thwain, to inform you that the Company has retired from the administration of this territory, and that the great English Government will succeed it, and Mr. Hardinge, the Consul-General at Zanzibar, will be the head of the new administration, and will issue all orders in the territory under the sovereignty of His Highness. And all affairs connected with the faith of Islam will be conducted to the honour and benefit of religion, *and all ancient customs will be allowed to continue*,\* and his wish is that everything should be done in accordance with justice and law.”

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\* My underlining.

I quote this statement in full because it is this statement and other similar statements on which the Arabs rely in support of their claims for protection and the preservation of their rights. It will be noted, however, in the context of African claims to the coast on the grounds that they were never consulted when the 1895 Agreement was signed, that there is no mention in the official reports of African participation in the "baraza" which, according to Sir Arthur Hardinge "was attended by the Wali and the principal Arabs of the town of Mombasa as well as by leading European residents". On the 14th December, 1895, the formal Agreement which is the subject of my appointment was signed between the British Government and the Sultan. It should perhaps be noted that the British Government, in taking over the administration of the Strip, did not repay to the Sultan the £200,000 with which he had bought the Company's assets, but have, since that date, arranged that £6,000, being the annual interest, should be paid to the Zanzibar Government, together with the annuity of £11,000 previously paid by the Company.

On the 3rd August, 1896, the British Foreign Office made an official statement declaring that all territories in East Africa then under the protection of Her Majesty, except Zanzibar and Pemba and the Uganda Protectorate, were, for the purposes of administration, included in one Protectorate, known as the East Africa Protectorate. The boundaries of the Protectorate were the German sphere on the south, the Uganda Protectorate on the west, and on the east the Indian Ocean with all adjacent islands from the rivers Juba to Umba. This declaration was promulgated by the East Africa Order in Council, 1897.

19. In 1920 the British Government decided to annex, by virtue of settlement, all the East Africa Protectorate, excepting only such territories therein as formed part of the dominions of the Sultan, and by the Kenya Annexation Order in Council 1920, the Colony of Kenya was annexed and thereafter formed part of His Britannic Majesty's dominions. Concurrently with that Order in Council, the Kenya Protectorate Order in Council, 1920, was promulgated, whereby all those parts of the East Africa Protectorate as formed part of the dominions of the Sultan were designated the Kenya Protectorate, and broadly speaking, came under the same administration (but as a Protectorate) as the Colony of Kenya. The Kenya Colony and Protectorate (Boundaries) Order in Council 1921 was subsequently promulgated delineating the boundaries of the Protectorate and following the boundaries agreed upon by the Anglo-German Agreement of November 1886.

This remains the constitutional position today.

### III—CONDITIONS IN THE STRIP TODAY

#### (a) Population

20. The peoples living in the Strip are made up, in approximate figures, of 300,000 Africans, 37,000 Arabs, Swahilis and Bajunis, 48,000 Asians, and 7,000 Europeans. Of these, 117,000 Africans, 27,000 Arabs, Swahilis and Bajunis, 34,000 Asians and 6,000 Europeans live in Mombasa district. These figures are estimates only—the last census having been taken in 1948—and are based on the numbers seeking and placed in employment in the Strip and on information derived from other departmental returns. There is a Jewish community, some Chinese Buddhists, besides Somalis. The Asian population includes an appreciable number of Parsees, Bohoras and Baluchis, every sub-division and caste of the Hindu religion and all six of the Sunni and Shia Muslim sects. In addition, there are Christians belonging to a variety of faiths.

21. The tribes indigenous to the Coastal Strip and Province are the "Twelve Tribes" who are mainly Islamized Swahili and tend to take the same

political stand as the Arabs; and the Wa-Nyika people, mainly pagan but partly Islamized and also partly Christian; these people include the Giriama, Duruma and Digo, and the other tribes which comprise the Miji Kenda.\* The African population today also includes large numbers of up-country tribes, mainly Kamba, Kikuyu, Luo and—to a less extent—Abaluhya, who work or seek work at the Coast but whose permanent homes are still for the most part in their own tribal areas. Islam has virtually no influence among them. Of the 58,268 Africans reported in wage earning employment in the Coast Province in June, 1959, only 25,563 were of Coast tribes. The total, and to a large extent migratory, African population in the Strip from outside the Province is thought to be about 60,000. The majority of the Africans work on the land and in Mombasa Port and Municipality.

22. The Arabs include Omanis and Hadramis: the few Bajunis in the Strip live mostly in the northern part adjacent to their own lands, although I met a few individuals further south. They are all of mixed stock, the early Arab colonists having inter-married with the local people with the result that there are few indigenous Arabs of pure blood in the Strip today. Indeed, I found a great many so-called Arabs who were unable to maintain a conversation in Arabic. Many Arabs are land-owners; others engage in trade and commerce but generally as retailers. The wholesale trade, though there are some notable exceptions, is in the hands of the Asians. The Bajunis are mostly fishermen.

23. The European population in the Protectorate is largely floating, being composed of employees of commercial companies and of the Government. I was given the impression by those in commerce, whose main desire is, of course, stability, that there would be more future in a separated Coast, if secure, than in a tie-up with Kenya. The settled Europeans, who are, for the most, retired persons and those who run their own professions or businesses, are mostly property owners and have a permanent stake in the Protectorate. The majority support the Arab cause; firstly, because they got on well with the Arabs and other Coast peoples and would prefer to be governed by them rather than by the up-country Africans; secondly, because they consider that there is more chance of having their land titles guaranteed; and thirdly, because they fear a breakdown of race relations in the Strip should it be fully integrated with Kenya. Nevertheless, it seems to me that the European settled community on the coast, as in Kenya Colony, are, for the most part, reconciling themselves to the fact that the majority view must prevail.

24. The Asians, Indians, Pakistanis and Goanese are mainly traders and merchants. They have links with relatives and co-racialists up-country and the Indians especially are not inclined to enter deeply into controversy about the Coastal Strip. I got the impression that they are content to carry on their businesses and, with their up-country connections, would prefer a solution which did nothing to interfere with their trading.

#### **(b) Land and Agriculture**

25. The 1895 Agreement vested in the British administration control only over *public* lands; but entitled them also to regulate questions affecting land. There are problems in the Protectorate relating both to private land and public (now Crown) land. Of the 1,354,000 acres of land in the Coastal Strip, 98,210 acres are held as freehold. Much of this freehold land is held by Arabs and there has been friction between them and the Miji Kenda tribes in respect of it. There have been allegations that the British Government has unjustifiably

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\* For further details of the Swahili and Miji Kenda tribes see Appendix D.

granted freehold titles to immigrant races. This is not correct. Freehold ownership was recognised under the earlier Arab administration and the Crown has only granted recognition to such freehold rights when established. Investigations and registration of such claims are going ahead but are still not yet completed. There are understandable anxieties as to the completion of this work and as to the need to improve and regulate landlord/tenant relationships between Arabs and Africans before the arrival of internal self-government. The background to this problem is as follows.

26. Dating from the days of slavery, Arab landowners have farmed their lands by a mass of African labour who have been in most cases unchecked, ill-organised and little supervised. Most of them would be termed "squatters" in that they pay some sort of annual due for the right to cultivate, but have no proper written or verbal agreement. Others are labourers who are paid sometimes in cash, sometimes in kind, the latter including *shamba* products. The problem has been complicated by the fact that absentee owners, multiple owners and, owing to delay in the adjudication of claims, doubtful owners all abound. The drift into the Coastal Belt from the hinterland dating from early days has recently been accentuated by a number of factors, the principal ones being:—

- (i) Successive poor seasons in the hinterland which have reduced the living to be made there to a mere subsistence, and the serious inadequacy of regular water supplies.
- (ii) The "Swynnerton Plan" emphasis on cash crops and their energetic encouragement by the Agricultural Department, with especial reference to the growing of cotton and to the planting of cashew nut and fruit trees. Perhaps inevitably, concentration on the more fertile area on the Coast has led to the hinterland being neglected; but, in addition, on the Coast itself regard has not always been paid to the question of who was growing cotton or tree crops for whom on whose land.
- (iii) Recent increases in the price of cashew nuts.
- (iv) The development and facilities all along the Coast—hospitals, schools, tarmac roads, shopping centres; this urban and semi-urban development making for easier living, has exercised the usual fascination common to country people all over the world, and not least in Africa.

27. Thus there are all the ingredients of an explosive situation, and, unless something is done to regulate the problem, there is a chance that African squatters will take the law into their own hands and that a deliberate onslaught will be made on Arab holdings and rights after independence. It is perhaps not within my terms of reference to comment on this situation but I feel strongly that if the prestige and authority of Government are not to be brought into disrepute, the first essential is to ensure general recognition of security of title. In this, the influence of the African political leaders exercised in support of legal rights could be of the greatest value. The following measures might also be considered. First, the application of the relevant parts of the Agricultural Ordinance to those owners who are not making good use of their land, to encourage them to do so. Secondly, the enactment of a landlord/tenant code to ensure reasonable terms for the tenant, the right of recovery of the landlord, and a division of rewards that will not work against the permanent improvement of the land. Thirdly, such a code might also cover labour relations between the landowner and his African labourers. Fourthly, the work of adjudication in respect of land titles should be completed as quickly as possible.

28. Public or Crown land is a lesser problem: the difficulty here is that there is Crown land which is unused, and so has been occupied by land-

hungry African "squatters". Sometimes this land was alienated, as leasehold, sometimes it was not. The answer appears to be to aim at full settlement and use of the land by leasing unoccupied Crown land for agricultural settlement and encouraging lessees to develop it under the Agricultural Ordinance.

**(c) Economic and Financial Position**

29. Economically, the Coastal Strip's real strength lies in Mombasa as a port. There is, however, a small amount of light industry, an embryo oil refinery, the Naval Armaments Depot, railway workshops and an expanding cement factory. Sisal, cotton, cashew nuts, and sugar are the main agricultural products outside the staple foodstuffs. The tourist industry is also useful and capable of expansion, and the growing and export of high-grade tropical fruit is developing.

30. The Strip cannot, however, as presently administered, be regarded as self-supporting economically. Calculated approximately, the cost of the recurrent services of the Government in the Coastal Strip plus interest on loan capital for development services amounts to about £2,675,500.\* To this should be added at least £130,000 for High Commission services. As regards revenue, about £1,700,000 is collected from the Strip in respect of income tax, personal tax, customs and excise, and about £215,000 in respect of traders', traffic and liquor licences, entertainment tax and petrol and diesel consumption taxes and proceeds from African Courts, making a total of approximately £1,915,000; from this must be found some £65,000 for expenditure on roads. The shortfall between revenue and expenditure is thus of the order of £955,500; and if to this were added the inevitable additional overheads of the area if it were to be administered separately from the Colony, the shortfall would be in excess of £1,100,000. Even if with confidence and stability the necessary capital became available for the development of the Strip, it would take many years for it to become economically self-supporting.

**(d) Mombasa Port**

31. The importance of the Protectorate to the rest of East Africa lies in the fact that Kenya and Uganda and north-west Tanganyika are almost totally dependent for their import and export traffic upon Kilindini Docks on Mombasa Island. During 1960, 36,400 passengers landed at the Port and 45,800 embarked; about two-thirds of these were travelling to or from Kenya and the remaining one-third to or from Uganda and Tanganyika. During 1960, 1,633,000 tons of cargo were imported and 1,002,000 tons exported through the Port and another 16,000 tons were transhipped. It has not been possible to ascertain the breakdown between Kenya and Uganda (or Northern Tanganyika or the Congo) imports and exports in terms of tonnage, but as regards the value of Kenya and Uganda imports and exports the 1960 figures are as follows:—

		<i>Million</i>
Kenya	(a) Net imports ... ..	£70
	(b) Domestic exports ... ..	£35
	(c) Total ... ..	£105
Uganda	(a) Net imports ... ..	£26
	(b) Domestic exports ... ..	£40
	(c) Total ... ..	£66
Grand total ... ..		£171

\* For details see Appendix E.

There are no readily available figures of tonnage or value of cargo handled in respect of Tanganyika, which territory makes very much smaller but important use of the port. However, from all the information available to me, it is clear that on average Kenya's share of import and export trade passing through Mombasa is about 60 per cent., Uganda's is about 32 per cent. and Tanganyika's is about 8 per cent. No figures are available to show what is the Coastal Strip's share of Kenya's trade.

### (e) Administration

32. As already observed in Chapter II, the Kenya Protectorate is a strip of land between the sea and an imaginary line ten miles inland from the coast at high water mark. It extends from the Uмба river in the south (i.e. the Tanganyika border) to the Tana river in the north and includes also the islands of Mombasa and Lamu and the township of Kipini; it does not extend to the Somalia border and excludes most of the Lamu district and the seaboard of the Tana river district north of the river.

33. The British Government, by virtue of the 1895 Agreement, administers the Coastal Strip for all purposes but without prejudice to the sovereignty of the Sultan. For convenience the Coastal Strip is administered with the rest of the Colony as an administrative unit with a single, common Public Service. The Coastal Strip is included in the area of the Coast Province under a Provincial Commissioner and District Commissioners for Lamu, Tana River, Malindi, Kilifi, Mombasa and Kwale. The divisional, locational and tribal boundaries extend from the coast inland, and the boundary of the Coastal Strip itself is not followed or observed in any administrative context by the Government or local authorities. It follows no natural feature or features and is not physically defined; it cuts across tribal areas and has never been demarcated.

Within the administration there is a special cadre of Arab administrative officers headed by the Liwali for the Coast (who is also Adviser on Arab affairs to the Governor) and consisting, apart from him, of four Liwalis and ten Mudirs. These officers also hold subordinate Courts of the second and third class with jurisdiction in both civil and criminal cases. There are, in addition, Kadhis who are magistrates specialising in questions of Islamic law in relation to inheritance, marriage and divorce, and other personal matters. Jurisdiction is limited to Arabs, Somalis and Africans. These posts were in existence before British administration and to the Muslim peoples of the Coast they are, on nationalist, religious and historical grounds, of very great importance.

34. The British Government have, in fact, created a sense of oneness of the Coastal Strip with Kenya, and for the last half a century Mombasa has served the whole area as its only port and gateway. Geographically, the Strip is, of course, joined with Kenya, and common administration and Government have inevitably produced even closer political, economic and social ties between the two than were referred to by Sir Arthur Hardinge in 1895.\*

35. Nevertheless, there is a strong feeling on the coast that the needs of its people have received scant attention from the Government in Nairobi. The coast people complain that land development, communications, social welfare, etc., have lagged very much behind their counterparts in the European Highlands and African reserves. They complain of no worthwhile road links with Nairobi and the Tanganyika border. They contrast the magnificent new Customs building in Mombasa, built by the East Africa High Commission (which, of course, serves

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\*See paragraph 17 above.

East Africa as a whole but mostly up-country Kenya), with the lack of a new railway station for Mombasa town, and allege that the story of neglect is the same for the Post Office, Treasury Building, Provincial Headquarters and High Court. They argue that if the Coast has suffered such neglect all these years during the time of the British Government, who have a reputation for fairness and justice, what would be its fate in a new set-up in which inexperienced people from up-country regions would dominate the Government. On this account, some people who ordinarily would not favour autonomy of the Coast are inclined to support it out of a feeling that, being on the spot, they would be able to influence those in authority and power, which would not be the case if they came under the domination of a Kenya Government situated in Nairobi.

#### IV—THE PROBLEM

##### (a) The Sultan's Sovereignty

36. It will be seen from the Agreement that the British Government is empowered to administer the Coastal Strip for all purposes, but without prejudice to the sovereignty of the Sultan. The Agreement, in fact, is conclusive recognition of the Sultan's sovereignty on the Coastal Strip. Similarly, the Orders in Council referred to in Chapter II were a clear recognition by the British Government that the Sultan's dominions, which formed part of the East Africa Protectorate, were completely separate from the Colony of Kenya, except as regards administration. Indeed the Agreement of 14th December, 1895, between the British Government and the Sultan was reaffirmed as recently as February, 1960, when the Lancaster House Kenya Constitutional Conference recognised it in the following words:—

“24. The Conference took note of a statement by the Secretary of State that questions regarding the Coastal Strip fell outside the scope of the Conference. They also took note of H.M. Government's intention to continue, for the present, to discharge as hitherto its responsibilities in this matter under the existing Agreement with the Sultan of Zanzibar.”

37. In considering various solutions to the question of what the future of the Coastal Strip might be I have, therefore, assumed general recognition of the sovereignty of the Sultan, of the legality of the 1895 Agreement, and of the determination on the part of the British Government to have full regard to such recognition when negotiating with the Sultan such changes as may be desirable in the Agreement. From this, it would seem to follow that if the Sultan agrees in the interests of the peaceful development of the area to relinquish his sovereignty he may need to benefit in other directions.

It was necessary for me to consider what in fact the Sultan's sovereignty consists of at the present time; and I found that the only manifestation of it on the coast of Kenya is his flag, which flies everywhere in the Strip and even in the Witu lands which are outside it. The Liwalis, Mudiris and Kadhis, although Arab administrative and judicial officers, are not appointed by the Sultan and, indeed, he is not consulted about their appointments. The Sultan, in fact, is not consulted on any matter affecting the day-to-day administration of the Coastal Strip of Kenya; he has not visited the Coast since he became Sultan; and very few of the Arab inhabitants of the Strip have even seen him. His sovereignty is, therefore, very nebulous and little more than a vague sentimental idea. Even so, many of the Arab inhabitants look as much to the Sultan as to the British Government for protection of their interests and, although the Sultan's sovereignty means little in its practical effect, I was convinced by my many interviews with Arab



and other Muslim inhabitants of the Coast that emotionally it is a factor which cannot lightly be put aside. Any arrangement, therefore, which could be devised which would allow the Sultan's purely nominal sovereignty to continue would, I am sure, be welcomed by the Arab and Muslim population of the Coast.

#### (b) Zanzibar's Views

38. I found a difference of opinion between the Government parties and the Opposition in Zanzibar about the future of the Strip. Both sides hoped that the Sultan's sovereignty could be maintained but the Opposition, the Afro-Shirazi party, would be most unwilling to press for this if it was likely to lead to any worsening of relations between Zanzibar and Kenya.

The Sultan was desirous that whatever solution was found would be to the benefit of his people on the Coast.

I got the impression from my interviews that the people of Zanzibar as a whole were not very interested in the outcome, though they saw in possible changes in the Agreement potential financial advantages for Zanzibar.

#### (c) Kenya's Views

39. The Kenya African political leaders are opposed to any arrangement which would diminish the national integrity of Kenya as a whole. Not unnaturally, they regard the Kenya Colony and Protectorate as a single entity. They regard the port of Mombasa as the port of Kenya, as indeed it is in economic terms and consider the whole of the Coastal Strip as Kenya's "front door". They would regard the independence of Kenya as the final fulfilment of their aims to throw off the shackles of imperialism; they have no desire to see the British withdraw and, at the same time, to allow a foreign power in the shape of the Sultan of Zanzibar to continue to exercise sovereignty, however insubstantial and sentimental it might be. In support of their claims to a unitary State of Kenya Colony and Protectorate, they point to the fact that the British have administered both areas as one, and to the fact that the African population is in the majority in both the Colony and Protectorate. They argue on geographical, ethnical, political and economic grounds, and their arguments command respect. The African political leaders, in short, do not recognise Arab claims to autonomy nor, if the Strip should be integrated in Kenya Colony, the natural desire of the Arab and other minority communities on the Coast to secure safeguards of some kind, and feel that if they are given supreme power they can deal with the problem in their own way. They regard the Sultan's sovereignty as an historical accident and its perpetuation as a matter of convenience on the part of the British. They appear determined that the sovereignty shall lapse on Kenya's obtaining independence.

#### (d) The Coastal People's Views

40. The views of the Coastal people are fairly predictable. With the exception of the Islamized Swahilis (who are classified with the Arabs), the majority of the Africans and the members of Kenya's two big African political parties (Kenya African Democratic Union and Kenya African National Union) are in favour of a unitary Kenya embracing both the Colony and the Protectorate. Like their political leaders in Nairobi, they dispute the historical arguments of the autonomists and point to the time-old African majority in the Strip. They criticise the 1895 Agreement as a product of unacceptable British and Arab colonialism and observe that the Africans were not consulted when it was signed. They are adamant in their refusal to recognise the Sultan's sovereignty and are

determined that the manifestations of suzerainty shall be removed on Kenya's independence. They insist upon the aspirations of the majority of the people in the Strip being the decisive influence as to its future.

41. The Arabs and Swahilis resident in the Strip are almost unanimous in favour of some form of local political autonomy although there are differences as to whether the Sultan's sovereignty should continue. Virtually all oppose integration of the Protectorate with the Colony, fearing strongly that Arab traditions and rights would be put in jeopardy under the weight of up-country African influence. They refer to the incipient intimidation, to the threats of boycotts and to the growth of a spirit of intolerance which they regard as a shadow of coming events. During my visit to Mombasa on October 9th and 10th there were instances of intimidation and boycotting of Arab shops by Africans which showed me that these fears are not groundless. They point, in support of a claim for autonomy, to the historical separateness of the Coastal belt from the rest of Kenya, to the centuries old Arab sovereignty on the seaboard, to the relatively recent arrival in the Coastal area of the Miji Kenda and other tribes and to the 1895 Agreement and the 1920 Orders in Council which established in treaty and in law separate political identities of the Colony and Protectorate. They argue that Britain, having for her own convenience administered the two areas as one, has wrongly generated the impression of a unitary Kenya. They claim that linguistically, racially and in religion, the peoples of the Strip are different from those of up-country Kenya and are not happily assimilable. They refer to the fact that they are not, like the up-country peoples, British subjects but that they are British Protected Persons and that they enjoy public holidays to celebrate Muslim religious feasts which are not observed in the Colony. They are willing to see an autonomous Strip join an East African Federation and propose Mombasa as the Federal capital. They contend that the majority of "true" residents of the Strip support their views. They plead to Britain not to abandon her obligations of honour. I quote here what one of my witnesses said:—

"It has never been known in history that the British Government has at any time shirked its obligations and responsibility by unilaterally abrogating a Treaty. Should this happen, Her Majesty's Government would be committing an unforgivable sin by throwing away the people who sought their protection to another country without the choice of determination of their future."

Another witness put it more shortly:—

"Might was right in 1895, and in 1961 Black is right."

42. The Asian and European population in the Strip is divided on this question, some supporting autonomy and others integration. In general, however, I found almost universal support among these sections for Arab claims for as effective safeguards as can be devised in such matters as land, education, language and religion, and in the maintenance of the present system of administration through Liwalis and Mudirs and of judicial settlement by Kadhis of cases arising under the Sharia law.

43. Another aspect of the problem which I have had to bear in mind is the genuine belief held by Coast people of all races that they have a distinctive outlook and way of life which has given them a greater measure of peace, harmony and regard for each other, and sense of toleration, than has existed elsewhere in Kenya. They claim that peaceful co-existence has been achieved on the Coast for many decades, and certainly I found race relations there very good indeed on the whole, although I realise that the recent up-surge of political

feeling and the land disputes which have been brought to the fore by the increase in prices obtained for cash crops are likely to affect race relations adversely and, indeed, have already begun to do so.

#### (e) Federation and Regionalism

44. The majority of the people of all sections of the communities with whom I discussed the future of the Coastal Strip welcomed the concept of Federation of East African territories, and many considered that in this would be found the ideal solution to the problem of the Coastal Strip. Certainly, I would have found my task much easier if a Federation already existed or would be likely to come into being within the immediately foreseeable future. Whether or not the Coastal Strip was treated as Federal territory in such a Federation, or was part of Kenya or Zanzibar within that Federation, would not in itself be important: in any such eventuality minority fears would be allayed. In such an event, however, I should myself recommend that Mombasa—and perhaps the Coastal Strip itself—should be declared Federal territory and be administered by the Federal Government.

Unfortunately, a Federation does not exist at present and although there are many plans and hopes to create one in the future there is no certainty that a Federation will be formed. Although, economically, East Africa as a whole has the framework on which a Federation can fairly simply be constructed, politically there are many difficulties, not least the fact that there are no area-wide political organisations which spill over into each territory. In all the circumstances, much as I should have liked to have considered the problem of the future of the Coastal Strip against a background of impending federation for East African as a whole, I have been unable to do so and have had to consider the problem on its own merits in the light of the situation which obtains today.

45. Another idea as yet untested and unrealised but which could have relevance to the solution of the Coastal Strip problem is the suggested establishment of a regional system in Kenya. But there are conflicting views about the powers to be given to the regions and about the actual boundaries of the regions themselves. Moreover, the scheme though advocated by one of the principal African parties is strongly opposed by the other large political party. Having regard to such uncertainties I have found it impracticable to recommend a solution for the Coastal Strip which would allow of its incorporation into such a system at the present time. I have, however, in Appendix F given some views as to how, if in the event proposals of this kind were adopted for the country as a whole, the coast area might be fitted into them.

#### (f) Summary of the Problem

46. From what I have said in this Chapter, it is clear that there is no solution to the problem of the Coastal Strip which would be welcomed by all those concerned. There are three possible solutions:

- (a) to maintain the *status quo*, which would be contrary to the views of Kenya;
- (b) for Her Majesty's Government to abrogate the Agreement as she is entitled to do under Clause 6; this would in law transfer the administration to the Sultan of Zanzibar, again contrary to the views of Kenya;
- (c) to change the Agreement or to terminate it by the Sultan renouncing his sovereignty, and this would be opposed by many of the residents in the Coastal Strip and by many Zanzibaris.

Thus dissatisfaction is bound to be felt by one group or another whatever recommendations are made.

## V—EXAMINATION OF PROPOSED SOLUTIONS

### (a) Whether any Change in the 1895 Agreement is Necessary or Desirable

47. *Prima facie* my terms of reference pre-suppose some change in the 1895 Agreement. Nevertheless, I have felt obliged to consider whether any such change is necessary or desirable and whether the *status quo* could not be maintained.

48. The British Government, by virtue of the 1895 Agreement with the Sultan of Zanzibar, administers the Coastal Strip without derogation from the sovereignty of the Sultan; moreover, a condition of the Agreement is that British administration should be carried on by officers appointed direct by the British Government, to whom alone they are responsible. The British Government has power to terminate the Agreement by six months' notice, but there is no provision for termination by the Sultan. At the present time, the Coastal Strip is administered by Britain through the Government of Kenya over whom and whose staff, it still retains ultimate control. The Colony and Protectorate are administered as an administrative unit with a single, common public service. When internal self-government is attained by Kenya, an Executive Public Service Commission will be established with powers to appoint and discharge public officials. Furthermore, officers will then be responsible to the Government of Kenya. The requirement that the officers appointed to the Administration of the Coastal Strip should be appointed by the British Government to whom alone they shall be responsible will not in such circumstances be met. Thus, either the arrangement for administering the Coastal Strip will have to be changed, or the Agreement will have to be revised, before Kenya obtains internal self-government and *a fortiori* before independence.

49. A change in the arrangements for administering the Coastal Strip would not necessarily affect the 1895 Agreement. It would be possible for the British Government to continue its protection over the Coastal Strip after Kenya Colony proper becomes self-governing and, later, independent. The officers administering the Strip could cease to be officers of the Kenya Government and could continue under such an arrangement to be responsible to the British Government. As I understand it, however, the view of the British Government is that while they would favour a solution which is in the best interests of all the people of the Kenya Colony and Protectorate, they have not previously thought of retaining any residual responsibilities for the Coastal Strip after Kenya becomes independent. I assume, therefore, that they would be willing to continue to exercise protection over the Coastal Strip only with the wishes of the bulk of the inhabitants of Kenya Colony and Protectorate and that the strategic implications of the Port of Mombasa do not weigh with them in this matter.

50. I also naturally kept in mind the Sultan's views in considering whether the *status quo* might be maintained. I got the impression from my discussions with the Sultan that he was less interested in the maintenance of his sovereignty in the Protectorate as guaranteed by the Agreement, than that whatever was decided affecting the future of the inhabitants of the Protectorate should meet with their approval. In the circumstances and in order to obtain for myself at first hand the opinions of the various communities in the Strip, I travelled extensively in the area and heard many views from the inhabitants as to its future. These views were widely diverging, varying from support for complete autonomy for the Coastal Strip on the one hand to its integration with Kenya on the other. There were naturally many views between these extremes, some people suggesting that a federation consisting of Zanzibar and the Coastal Strip would be the best solution, while others were desirous of seeing the Strip as federal territory within a larger East African Federation. A number of people said that they wanted the British

to maintain their connexion with the Coastal Strip and indeed looked to Her Majesty's Government to defend them against possible invasion from up-country Kenya tribespeople if the Strip were set up as an autonomous State. A number pointed to the strategic value of Mombasa Port as being a useful *quid pro quo*. But very few people considered that it was reasonable to expect Her Majesty's Government, against the unanimous wish of the people of Kenya Colony, to continue to exercise protection over the Strip alone after Kenya became independent, particularly at this time when world opinion is suspicious of and hostile to any arrangement, however well-intentioned and genuine, which savours of neo-colonialism.

51. In view of the attitude of the British Government and of His Highness the Sultan, and in the light of the weight of opinion among the Coastal Strip inhabitants themselves, I am satisfied that it would be impracticable for the British Government to continue to maintain its protection over the Coastal Strip after Kenya Colony becomes self-governing and *a fortiori* independent. For the same reasons I rule out the suggestion made to me by one of my witnesses that an autonomous State on the Coastal Strip should be in federation with the United Kingdom. Some changes in the 1895 agreement must therefore be made.

It was held by some of my witnesses that it would be impossible for Her Majesty's Government to change the Agreement without breaking their word. One was most insistent that "the Treaty can only be amended by the transfer of the Sultan's sovereignty to an East African Federal Government in which the Treaty peoples have an equal say, and until such time as this is agreed, Britain must retain protection under its Treaty obligations". Others held that the British Government could not terminate the Agreement and their protection of the Coastal Strip without treating the Agreement as a "Scrap of Paper" and going back on their word. It would in their view be highly dishonourable to do so.

Under clause 6 of the Agreement, however, Her Majesty's Government has the right to terminate the Agreement, at any time after giving six months' notice. I have no doubt that this clause was included in the Agreement in order to meet just such a situation as has now arisen with the approach of Kenya to self government and independence. It is my opinion that should the Agreement be changed or abrogated completely, Her Majesty's Government will not be guilty of "a breach of trust", nor will such action "be an indelible stain on the faith and integrity of the British", as another witness said, so long as the best arrangements possible are made to safeguard the rights and interests of all concerned.

52. In considering what any such changes might be, I have borne in mind that the two main schools of thought on the future of the Coastal Strip are that the area should be an autonomous State or that it should be fully integrated with Kenya Colony. Within these two extremes there are of course, as I have indicated, many variations. Some of these variations are as follows:

(a) Outright autonomy:

- (i) for the Coastal Strip itself;
- (ii) for the Coastal Strip plus the Bajuni Lands in Witu, north of the Tana River;
- (iii) for the Coastal Strip and the remainder of the Coast Province, with perhaps part of either the Northern or Southern Province added;
- (iv) for the Port of Mombasa and its environs only.

(b) Autonomy for the Coastal Strip itself or for an area larger or smaller than it, provided that the area participated in an East African Federation.

- (c) Separation of the Coastal Strip or an area larger or smaller than it from Kenya:
- (i) in association with Zanzibar; or
  - (ii) in association with Zanzibar, provided that both the area in question and Zanzibar agreed to participate in an East African Federation.
- (d) The Coastal Strip or part of it could become federal territory within an East African Federation, with Mombasa becoming also the federal capital or a federal port, or a free port.
- (e) Full integration of the Coastal Strip in a unitary State of Kenya with some degree of autonomy for the Coastal Strip itself.
- (f) Full integration within a unitary State of Kenya, but with the rights of minorities preserved by other institutional or constitutional means.

**(b) Whether a Referendum is Necessary or Desirable**

53. A number of my witnesses, advocates of autonomy for the Coastal Strip on the one hand and integration of it within Kenya on the other, recommended that a referendum should be held to ascertain the views of the inhabitants of the Strip. As has been observed in the immediately preceding paragraph, however, although there are two clear basic alternatives, separation from, or integration in Kenya, there are many variations of the former. It would be impossible in a referendum to obtain a decision among these different views, and this seems to me to detract greatly from the value of such a proposal. Should the autonomists win, no clear cut answer would be obtained. Furthermore, there are divergent views on who should be classified as the inhabitants of the Strip for the purpose of a referendum. One school of thought is that any such referendum should be confined to the Arabs and Swahilis and the Africans who have lived in the Coastal Strip for a number of years and made it their home; varying periods of residence were suggested but the consensus of opinion supported either five or ten years' residence. The "autonomists" would be opposed to extending the referendum to include up-country Africans, who have moved into the Port of Mombasa and other areas on the Strip in more recent years and others who are in effect only migrant labour. The supporters of integration, on the other hand, considered that everyone at the moment living in the Coastal Strip should be entitled to vote in any referendum. Thus there are difficulties in deciding the qualifications for eligibility to vote in a referendum, though these are by no means insuperable.

54. Whatever qualifications are decided, however, the preparation of a register of such persons would be a task requiring many months of work. I had the impression that both parties are anxious that the question of the future of the Coastal Strip should be decided at an early date. Certainly, for the future of race relations and on security grounds the sooner the matter is settled the better. In my view it would be particularly dangerous to allow present fears and uncertainties to increase. A referendum would not only do this; it would create additional points in time at which such fears and uncertainties could be intensified to such a degree that there could conceivably be an eruption leading to violence and race riots. This is possible if and when a decision is taken on my report; but if a referendum were to be held, there would be two further dangerous occasions--when the list of electors was prepared and when the result of the referendum was announced. I do not consider that this would be in the interests of the inhabitants of the Strip.

55. Moreover, apart from exacerbating present racial animosities, it is possible that the result of any referendum would itself be influenced by intimidation, and whatever its outcome, it might be argued by the protagonists of either party that it was not a fair reflection of majority opinion in the Coastal Strip. Furthermore,

I am by no means convinced that a referendum is necessary. Although I had only a limited amount of time at my disposal, I was able to travel extensively throughout the Strip and to hear the views of a great many of the inhabitants of the area. In all, as I have said above, I saw well over 100 delegations, comprising between 500 and 600 persons. I also held a dozen or so public meetings at which I addressed and heard the views of another 5,000 people in the Strip. I regard the views submitted to me as being a fair reflection of opinion on the Coast and I consider that the opinions which I heard orally and the memoranda which were submitted to me before and during my stay in the Coast have given me sufficient material on which to base a judgment of majority opinion on the future of the Coastal Strip among the inhabitants of the area. I would therefore suggest that my visit could properly be regarded as a survey of opinion on this question and that unless the criteria adopted in deciding who should vote in a referendum were extreme, either in one direction or another, the impression I have obtained of opinion on this matter would be confirmed by a referendum. In all the circumstances I do not consider that any useful purpose would be served by holding a referendum and I do not recommend one.

56. I referred in paragraph 52 to the various suggestions made to me for dealing with this problem and I will now discuss them in detail.

### (c) Coastal Autonomy

57. During my discussions with individuals and delegations and in the various memoranda submitted to me from time to time it was suggested by many of the witnesses that the best solution would be to establish the Coastal Strip as an autonomous State. Some of my witnesses visualised their proposed new State as being entirely autonomous; others as it being federated to Zanzibar under the sovereignty of the Sultan; and almost all who favoured this proposal considered that if and when an East African Federation was formed the new State should become a member on equal terms with the other component territories. The area of such a State might take several forms:

- (i) The Coastal Strip itself;
- (ii) The Coastal Strip plus the Bajuni lands in Witu, north of the Tana River;
- (iii) The Coastal Strip and the remainder of the Coast Province, with perhaps part of either the Northern or Southern Province added;
- (iv) The Port of Mombasa and its environs.

#### (i) The Coastal Strip Itself

58. From all the information available to me, it is clear that the Coastal Strip itself is neither economically, nor ethnically, nor politically, nor administratively viable; and that it cannot hope to be viable in any or all of these terms within the immediately foreseeable future. According to figures supplied to me by the Kenya Treasury,\* the Coastal Strip is at present in deficit annually on recurrent account of £955,500. In providing me with these figures, the Kenya Government have been at pains to point out that they are only at best approximations, since they are taken from the Territory's "Estimates of Revenue and Expenditure", which do not deal with the Coastal Strip as a unit; and are deduced from the Budget of the Coast Province of which the Strip is administered as a part. Nevertheless, they are the only figures I have been able to obtain, and I accept them, as an intelligent approximation based on careful scrutiny of Coast Province Revenue and Expenditure. I have found no evidence to controvert the impression given me during my enquiries and reinforced by these figures

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\* See Chapter III, paragraph 30.

that the Coastal Strip is not at present financially viable. It is relevant here for me to record that, in all my discussions with different sections of the communities on the Coast, the general consensus of opinion supported this view, and that very few people were prepared seriously to challenge it, though a number considered that with political stability, and sound government, there are excellent development possibilities, which only require capital to implement and that this would be attracted to an area where conditions were stable.

59. To add to the present lack of viability the creation of a new State implies the creation of many new services and institutions which would be expensive: e.g. a new government, with ministries and an assembly; a separate civil service, with central secretariat, treasury and departmental headquarters offices; a larger police force with a police headquarters; and so on. In fact, the overheads which are now provided by the Kenya Government would in the new State have to be provided on the spot, and this could not be done without considerable increases in expenditure. Some of my witnesses suggested that a deficit of £1 million is not unbridgeable and that the revenue necessary to cover the gap could be raised either by increasing customs charges on goods passing through the Port of Mombasa or by levying additional local taxes, which an autonomous Coastal State could legitimately do. I cannot believe that the former would be for the benefit of East Africa as a whole or that the Governments of Kenya and Uganda would easily allow the new State to interfere with their economic lifeline in such a way. The latter would mean that the Strip was barely making both ends meet, and was subsisting on the verge of bankruptcy, stifling its own development by a too high level of local taxation.

60. If it were decided to set up the Coastal Strip of Kenya as an autonomous state, the boundaries of such a State would cut completely across present tribal boundary lines. I recognise that this already happens in Kenya itself, where the boundary line dividing Kenya from Tanganyika separates the Masai in Kenya's Southern Province from the Masai in Tanganyika's Northern Province, and where there are Wadigo both in Kenya and Tanganyika. Again, in the North, there are Bajunis and Somalis both in the Coast and Northern Provinces of Kenya and in the Somali Republic. But the fact that such divisions have taken place as a result of historical accident is not in itself any justification for creating further anomalies of this nature. Furthermore, the Strip has never been demarcated, and to mark out a boundary seems quite unfeasible at the present time without risk of opposition and possibly disorder; and as one of my witnesses, who knows the Coast well, explained, the ten sea miles only defines the Coastal plain approximately, as in some places it is only seven miles broad and in others it may extend to fifteen. A ridiculous situation could arise if the boundary had to take account of the high water marks in inlets such as Mombasa Harbour or the Kilifi basin, and not of the Coast line itself, as this would result in long narrow peninsulas of Coastal Strip penetrating into the hinterland. The intention of the original Agreement is not clear on this point.

61. Because of the poor rainfall and lack of adequate water supplies in the hinterland, and because of the better facilities obtainable on the Coast, parts of the tribes who traditionally have lived outside the ten-mile Strip have in recent years moved into the area in considerable numbers, in addition to the many Africans whose ancestors must have lived in the area when the Arabs began to establish their trading stations along the Coast. Thus, the Giriama, the Pokomo, the Wadigo and the Waduruma are now settled both within the ten-mile Strip as well as in their traditional tribal areas in the hinterland. There is no doubt whatsoever that the establishment of an autonomous state extending ten sea miles from the coast would result in part of these tribes living in any new autonomous State and part within the Colony of Kenya proper. Such an artificial boundary,



however well policed, could not prevent the frequent coming and going of the tribesmen across the border. The frictions arising from such a situation would certainly not be in the interests of the proposed new autonomous State, or indeed of Kenya itself.

62. This situation also impinges on the political field. It is clear that, as the African tribes-people from up-country have moved into the Strip in increasing numbers, the whole political pattern of the Coastal Strip has changed. As I have already observed in Chapter IV, race relations along the Coast in the past have been extremely good. I see no reason why they should not continue to be so. It was made clear to me, however, that the majority of the Africans, who are now the predominant race in the Coastal Strip, are opposed to any idea of an autonomous State and separation from Kenya. In my opinion, law and order could only be maintained in an autonomous State of the kind suggested by expelling the bulk of the African population and vigorously controlling further immigration by Africans from outside the Strip whether from the neighbouring areas or from further up-country. Even if it were within the realms of practical politics to persuade or to force the up-country Africans to return to the hinterland—and it is by no means certain that many of them are not entitled to be recorded as persons indigenous to the Coastal Strip, either on traditional grounds or because they have to all intents and purposes made it their permanent home—I do not regard it as possible to expect an autonomous State stretching in a thin belt for 200 miles along the Coast to be able to prevent infiltration and invasion by further and successive waves of up-country tribes-people in search of the work, land and facilities which the Coast provides. And if a hostile up-country Kenya Government wished to excite agitation and disorder, the new State would not be in a position to defend itself from attack. An inflammable situation would almost certainly develop which could cause serious harm to the safety and the peaceful development not only of the new State itself, but of the whole of East Africa.

63. Such a solution in my view is also administratively impracticable. The Coastal Strip has been administered for many years as a part of Kenya, and the boundaries of the administrative divisions, drawn up long ago for convenience and good government, completely disregard the fact that the ten-mile strip is a Protectorate and the land outside is part of the Colony of Kenya. The British Government's view in 1895 was that the coast and the interior had already been welded too closely to permit their being separated and surely after another 70 years of administration as a single entity, to put the clock back without serious administrative upset would be impossible. In any case, very few people with whom I discussed the question were confident that such a long narrow area would lend itself to effective administration.

64. Thus, in my opinion, on economic, ethnical, political and administrative grounds, the Coastal Strip ten miles wide cannot, at the present time, nor could it in the immediately foreseeable future, be set up as an autonomous State with any hope or expectation that it would succeed. Furthermore, if it were set up, it would be bitterly opposed by up-country Kenya opinion, and I have no doubt that propaganda and incitement, working on the easily excitable feelings and emotions of the African population would soon lead to disorder, break-down and chaos. In the circumstances, I have no hesitation, in coming to the conclusion that autonomy for the Coastal Strip itself is impracticable and should not be proceeded with.

**(ii) The Coastal Strip plus the Bajuni Lands in Witu, North of the Tana River**

65. There were two schools of thought among the Bajunis who submitted oral or written evidence to me; one school advocating the establishment of a

separate Bajuni State and the other recommending incorporation of the Bajuni areas within an autonomous Coastal Strip or, failing that, the incorporation of the Bajuni lands within the Somali Republic. The possibility of the Bajuni lands being established as a separate State or their incorporation into the Somali Republic are outside my terms of reference and I do not propose to comment upon these suggestions. Although the Bajuni lands themselves are outside the Coastal Strip, and, therefore, their future is not for me to advise upon, yet in so far as a recommendation for their incorporation within the Coastal Strip as an autonomous area comes within my terms of reference to the extent that it affects the future of the Coastal Strip, I consider that it is a possibility which I can properly examine.

66. From my examination and research into the present day conditions and prospects of the Bajuni lands, it is clear to me that their incorporation within an autonomous State consisting of the Coastal Strip alone would not materially improve the economic prospects of such a new State.

67. It is true that almost all the Bajuni are Muslims, and that like the Arabs and other Muslims of the Strip, they live under the Sharia Law and have their system of Liwalis, Mudirs and Kadhis. Their customs and their civilisation are also more those of the Coast than of up-country Kenya. Nevertheless, they number a mere 30,000 people—pastoralists, farmers and fishermen. The area has few economic assets, and its contribution to the economy of an autonomous Coastal Strip would be insignificant. Administratively, such an arrangement would merely lengthen the frontier of the Strip; ethnically and politically it would have little, if any, effect on the present imbalance in population between Africans and others in the Strip; and economically, as I have said, it would tend to be a drain upon any new autonomous State rather than an asset. I therefore, see no advantages accruing either to the Strip or to the Bajuni people in incorporating the Bajuni lands within an autonomous Coastal Strip, and while I would support their claims to be closely associated in the future with the people of the Coastal Strip with whom they are one, I cannot believe that their incorporation into the Strip could much affect the viability of the Strip one way or the other. I have no hesitation, therefore, in recommending against any proposal to establish an autonomous State consisting of the present Coastal Protectorate adjoined with the Bajuni lands.

**(iii) The Coastal Strip and the Remainder of the Coast Province, with Perhaps Part of Either the Northern or Southern Province Added**

68. I am bound to confess that the idea of setting up the Coastal Strip plus the remainder of the Coast Province as an autonomous State has some attractions. In the first place, it would not be difficult to administer; indeed, it is administered effectively as a Province already, though of course the financial implications mentioned in paragraph 59 would still have to be met. Ethnically it also has advantages. On the other hand, there are the same differences and distinctions between the up-country African tribes of the Coast Province and the Coast Africans, Arabs, Asians and Europeans as there are between the more politically conscious and industrious Kikuyu, Luo and Kamba and the Coast tribes and other peoples of the Coast, though perhaps these differences are not so great.

69. Nevertheless, it can be argued that there would be more possibility of preserving the interests, and of safeguarding the rights, of minority tribes within a small rather than a large State. It has been submitted to me that the smaller the area, the smaller the population; and the smaller the population, the less likely it is for any section of the community to lose its identity or to be forced to succumb to the wishes of the majority. Similarly, it is held that economically

too, the Province might have greater potential than the Coastal Strip itself even though at the present the up-country areas have not been developed. I am not altogether convinced by these arguments myself but they deserve consideration, and I must confess that the idea of establishing an autonomous State consisting of the Coastal Strip and the remainder of the Coast Province, together possibly with a part of the Northern or Southern Province, if necessary, seems to me to be a more feasible proposition than a purely Coastal Strip State, since *prima facie* it meets most of the criteria I have felt compelled to consider in determining whether or not the Coast or any part of it could, and properly should, exist as a separate entity. But it is extremely doubtful whether such a State would be strong enough to develop successfully in modern terms, and to the extent that it was established as a separate entity at all and *a fortiori* to the extent that it succeeded, so it would exacerbate opinion and incur hostility in up-country Kenya, which looks to Mombasa as its port.

70. Mombasa is, of course, the gateway to East Africa as a whole and no independent Government in Kenya—in Uganda and Tanganyika also—could look with equanimity upon the prospect of having its port under the sole control of another power. I am aware that arrangements can be made and agreements entered into to preserve the interests of Kenya, Uganda and Tanganyika. Nevertheless, I am firmly convinced that it would do nothing but store up trouble for the future to establish a new weak State in which was situated the leading port of the three mainland East African territories. Moreover, it would open the way to the “Balkanisation” of the East African territories. I cannot believe that this is in the interests of East Africa as a whole. Indeed, it is clear that the countries of the world in general are coming together in larger groups rather than disintegrating into smaller ones, and the severe economic pressures of the modern world make this imperative. For these reasons, I do not recommend the establishment of such a State, even though in future it may be envisaged as being a member of an East African Federation.

71. There is, however, a possibility that such an area might suitably form a semi-self-governing “region” or country in the State of Kenya, thereby conforming to the ideas of regionalism which are being discussed in Kenya today. As I understand it, the suggestion is that Kenya should be divided into four or five regions or counties under a central government, but with certain powers relating to land, education, the civil service and the police reserved to the separate regions. Thereby safeguards would be provided for local interests, and these would certainly help to alleviate the anxieties which are felt by the minority groups in the Coastal Strip. In present circumstances, however, when detailed plans for such regionalism and for federation have not yet been worked out, I must frame my recommendations in the light of the situation which exists now and not against the background of hopes and expectations for tomorrow, and as things now are, I cannot bring myself to recommend the establishment of an autonomous State comprising the Coastal Strip of Kenya plus an area which might consist of the remainder of the Coast Province with or without a part of the Northern or Southern Province added.

#### (iv) The Port of Mombasa and its Environs

72. In addition to considering suggestions that the Coastal Strip itself should be an autonomous state, and that an area larger than the Coastal Strip might be a separate entity, I have also considered whether, as proposed by one or two witnesses, an area smaller than the Coastal Strip could develop as a separate State in modern terms. The most obvious area of such a State would be the town and port of Mombasa and its environs. It is certainly the richest and most developed part of the Coastal Strip. It is undoubtedly the best and most effec-

tively administered part of the Strip. It is certainly the most densely populated part, and as I have shown in Chapter III the ratio of Africans to others is less. Thus there are more opportunities for employment; and vexatious issues such as land and Islamic personal law do not appear to loom so large. Moreover, although I found that political opinions are held as dearly and as firmly (if not more so) in Mombasa as elsewhere, I was left with the impression that race relations are, on the whole sound, and that most difficulties arise from economic factors rather than from political and religious beliefs.

73. Against this, however, it does not seem to be practicable to establish a State with an area of only 106 square miles, although one or two of my witnesses mentioned the state of Monaco as a parallel. This is especially the case because the greater part of the water supply for the town and the Port comes from Mzima Springs, approximately 150 miles within Kenya. This supply provides fresh water for the growing number of ships using the Port and will be increasingly demanded when the new oil refinery comes into use. Some of my witnesses claimed that all the fresh water that Mombasa needs can be produced within its surroundings. This is not so. The entire water resources of Mombasa and Mrere near Kwale (which is itself approximately 14 miles from the Kenya coastline) before the Mzima Springs pipeline was brought into operation in mid-May, 1956, were three million gallons per day. Current consumption of fresh water in Mombasa is over four million gallons per day, of which the Mzima Springs supply rather more than half. It is hardly likely that the Water Authority would have gone as far as Mzima Springs, had it been able to obtain the water required closer at hand. The only alternative source of supply for Mombasa other than Mzima Springs is the Sabaki River north of Malindi. I am assured that this source was considered but rejected because—

- (a) full treatment of the Sabaki River would be necessary;
- (b) expensive pumping costs would be involved;
- (c) the terrain traversed is much more difficult and two expensive creek crossings would be involved.

Furthermore, the same arguments relating to the Port of Mombasa which I referred to in the immediately preceding section apply. The establishment of such a small area as an autonomous State could only, in my considered opinion, harm the development of the East African territories without necessarily improving the political and economic prospects of the State itself. For these reasons, I am unable to recommend the establishment of Mombasa town and port as an autonomous State. The alternative suggestion was made that Mombasa might well become the capital of an East African Federation and that this would in fact help to solve the minority question in that municipality. Should in the future the States comprising any Federation come to such a decision, I can see nothing but good in this proposal for Mombasa, but as I said in Chapter IV above an East African Federation is still a matter for the future.

74. As will be seen from the above, I have considered and decided against recommending the establishment of the Coastal Strip itself, or an area larger than the Strip, or an area smaller than the Strip, as an autonomous State. I next had to consider whether the future of the Coastal Strip should lie with Zanzibar, or with Kenya, and to these questions I now turn.

#### **(d) The Coastal Strip and Zanzibar**

75. Under the 1895 Agreement, the sovereignty of His Highness the Sultan of Zanzibar does not extend beyond the ten-mile Coastal Strip itself (except for the island of Lamu), and, therefore, in considering whether the Coastal Strip should revert to Zanzibar, whether as part of Zanzibar or as a separate State

joined with Zanzibar I have felt it necessary to consider the Coastal Strip itself only, or a part of it, and not a larger area. There are, as I see it, two possible ways in which such a solution could be achieved:—

- (i) Zanzibar and the Coastal Strip or a part of it could come together as separate States within a federation of Zanzibar and the Coastal Strip or a part of it.
- (ii) Zanzibar could administer the Coastal Strip as a whole as a dependency or only a part of the Strip e.g. Mombasa, the remainder being incorporated within Kenya.

**(i) A Federation of Zanzibar and the Coastal Strip, or part of it**

76. In considering whether Zanzibar and either the Coastal Strip itself or a part of it (e.g. Mombasa) could effectively be joined in a federation, I have looked for some common identity of purpose which would act as a unifying factor. I have also considered, of course, whether the two separate territories could be economically viable. It is clear to me that however close the connections between Zanzibar and the Coastal Strip of Kenya may have been in the past, the present ties are tenuous to say the least. There is very little trade between the Coastal Strip and Zanzibar, apart from the supply of mats from Lamu to Pemba for the packing of cloves and coconuts (and even this trade is being rapidly replaced by the importation into Pemba of jute bags from India). The interchange between the Coastal Strip and Zanzibar and Pemba is very slight and consists chiefly of visits between relatives rather than of business ventures. Loyalty towards the Sultan seems, from all the discussions I have had, to be only a sentimental and traditional attachment with little practical significance today.

77. Among the Arabs on the Coast, I discovered two schools of thought, some expressing a desire to continue under the Sultan's sovereignty, while others preferred to consider this question after the establishment of a separate State for the Coastal Strip. Thus, whatever may have been the unifying factor between the Coastal Strip of Kenya and Zanzibar in the past, little of it remains today. When I was in Zanzibar I inquired whether if this solution of a Zanzibari Federation was adopted, the Zanzibar Government would be able to meet the present deficit of £955,500 in the Coastal Strip revenues. I was informed that this was quite impossible, that the Zanzibar Government itself barely made ends meet, and that it could certainly not shoulder a deficit of this magnitude. Nevertheless, the Zanzibaris generally would welcome an arrangement of this kind on historical and sentimental grounds, particularly if it were to lead directly to the creation of a wider East African Federation. At the same time I got the impression that they were fully aware of the economic, political and security difficulties if a wider federation did not immediately come into being, and that, however attractive the idea of a Federation of Zanzibar and the Coastal Strip, they would be reluctant to press for it, if it were to meet with opposition from the people of up-country Kenya and to embitter relations with them. It seems to me however that the financial and economic arguments are conclusive. Zanzibar being in no position to carry the Coastal Strip's annual deficit, I do not consider it practicable to establish a federation between Zanzibar on the one hand and the Coastal Strip of Kenya or some lesser part of it, e.g. Mombasa, on the other.

**(ii) Zanzibar as Administering Authority of the Coastal Strip, or part of it**

78. If Zanzibar and the Coastal Strip are not in a position to join together in a federation, then it follows that there is even less justification for advocating a resumption of administration over the Strip or some part of it by Zanzibar.

For not only is the Coastal Strip in deficit on its annual budget, which Zanzibar would be unable to meet, but Zanzibar itself is also in a difficult financial position and may well have to seek substantial grants-in-aid from Her Majesty's Government. Since Zanzibar can scarcely support herself, she certainly cannot take on the additional burden of administering the Coastal Strip or some part of it, and indeed this is freely admitted, as I said above.

79. Even if this were a possibility in economic terms, it is doubtful whether Zanzibar has the capacity to administer the Coastal Strip in addition to the Island itself. I have already referred to the changed racial characteristics of the Coastal Strip; Arab influence has been eroded over the years, and the Africans are now in the majority. From the political point of view, I found no desire on the part of any responsible person in Zanzibar to resume responsibility for the administration of the Coastal Strip, nor any wish on the part of the inhabitants of the Coastal Strip to be administered by Zanzibar, as distinct from acknowledging the Sultan's sovereignty. I cannot, therefore, recommend that the Coastal Strip or any part of it should be administered by Zanzibar.

#### (e) The Coastal Strip and Kenya

80. Since the 1895 Agreement must be altered and since the Coastal Strip cannot be established as a separate State, nor be joined with, nor administered by, Zanzibar, and as a regional system has not yet been evolved in Kenya and an East African Federation is still something in the future, it follows that the only practicable alternative is for the Coastal Strip to be integrated fully with the rest of Kenya. There are sound and cogent reasons why this should be so:

- (a) It meets the wishes of the majority of the inhabitants in the Coastal Strip, who, being Africans, regard Kenya as one State from the Coast to Lake Victoria.
- (b) It will prevent the disintegration of Kenya and discourage the "Balkanisation" of East Africa as a whole.
- (c) It will allow Kenya's port to remain within Kenya.
- (d) It will enable the present system of administration, which I very much hope will be followed by an independent Kenya Government, to be continued.
- (e) It will prevent the creation of a new boundary problem, thus obviating the sort of difficulties which could arise on the Kenya/Ethiopian and on the Kenya/Somali Republic borders.
- (f) It will meet all the various criteria I have felt obliged to consider, namely, the arguments based on geographical, economic, ethnical, political and administrative grounds.

81. In all these circumstances, it is my recommendation that the Coastal Strip should be administratively integrated with Kenya just before Kenya becomes self-governing and that the 1895 Agreement entered into by Her Majesty's Government and His Highness the Sultan of Zanzibar should be abrogated. I have considered whether the Sultan of Zanzibar should be invited to renounce his sovereignty at the same time. It would be possible, on Kenya's becoming self-governing, for Her Majesty's Government to abrogate the Agreement and to give up the right they thereby acquired of administering the Coastal Strip, and at the same time for His Highness the Sultan to enter into a new agreement with the Kenya Government on exactly similar terms for the administration to be carried out by that Government just as in the past it has been by Her Majesty's Government. The advantage of this would be that the Coastal people, who have a real but purely sentimental attachment to the Sultan, would still continue to live under his sovereignty and would be given a breathing space

which might help to make them less opposed to the idea of being ultimately completely integrated with Kenya. The disadvantages are, firstly, that the Kenya statesmen, who do not recognise the Agreement as binding upon them, might be unwilling to enter into negotiations to this end (those with whom I discussed this suggestion opposed it strongly) and, secondly, that it might well be more agreeable to the Sultan and the Zanzibar Government to have the matter settled once and for all, when Her Majesty's Government withdraws from the Strip. It would then be more possible to combine the end of the Agreement with a general financial settlement. I recommend, however, that negotiations should take place between Her Majesty's Government in consultation with the Kenya Government on the one hand and the Sultan of Zanzibar, advised by the Zanzibar Government on the other, on the possibility of the Kenya Government replacing Her Majesty's Government in a new agreement as the administering authority of the Coastal Strip.

## VI—FINANCIAL IMPLICATIONS

### (a) Background

82. I have already referred in Chapter II to the financial negotiations between the European Powers and the Sultan of Zanzibar relating to the Coastal Strip but it will be convenient if I repeat the facts briefly here. In 1888, the Imperial British East Africa Company was given extensive rights by the Sultan on the Kenya coastline. In return, the Company undertook to make to the Sultan an annual payment of £11,000, equal to the estimated revenue of the customs duties formerly levied by him or his agents in this area.

83. In 1890 a sum of £200,000 was paid to Sultan Ali by the German Government as indemnity for the surrender of the Sultan's authority over the Tanganyika coastline. This sum was invested in British stock. On the death of Sultan Ali in 1893, his successor, Seyyid Hamed bin Thwain, was persuaded to regard this sum as the property of the Zanzibar Government, and not as the private property of the Sultan. Meanwhile, however, the British East Africa Company was becoming insolvent and wished to withdraw from East Africa. It pressed the British Treasury for a grant in recognition of its work in opening up the hinterland of East Africa. Eventually, the British Government informed the Sultan that the sum of £200,000 paid to his predecessor by the German Government would be taken to re-purchase the concession granted by him to the British East Africa Company on the Kenya Coast and to compensate the Company for the assets they would be abandoning. The British Government assumed direct administration of the area and took over the assets abandoned by the Company.

84. From this arose the 1895 Agreement in which the British Government agreed to pay Zanzibar £6,000 annual interest on the £200,000 used to compensate the Company, plus £11,000. This last sum was understood at the time, though not stated in the Agreement, to be an amount of £10,000 relating to the present Coastal Strip of Kenya in place of the equivalent annual payments made by the Company in replacement of the Sultan's previous customs revenue and a sum of £1,000 relating to Jubaland for a similar purpose.\* In practice, the

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\*After the first world war, and as part of the post-war allied settlement, the British Government ceded to the Italian Government in 1924 all its sovereign rights over Jubaland, i.e. Southern Somalia. Kismayu and other stations being part of Jubaland were also ceded by the British Government by virtue of the Protectorate over Zanzibar in the name of and on behalf of the Sultan. The Italian Government agreed to indemnify the Government of the Sultan for any loss of revenue thereby incurred by paying an annual sum of £1,000. At the end of the war of 1939-1945, when Somalia was administered first by the British Government as occupied enemy territory, later by the Italians as a Trust Territory and then became independent, the British Government took upon themselves the responsibility for paying this sum annually to the Zanzibar Government.

Kenya Government pays the £10,000 annuity and Her Majesty's Government pays the balance of £1,000. The Kenya Government has also taken over responsibility from Her Majesty's Government for paying the interest on the loan of £200,000 which amounts to £6,000 per annum at the rate of three per cent.

**(b) The Original Loan of £200,000**

85. It will be noted that although the Agreement purported to be between equals, the Sultan himself at the time thought that he was being persuaded to agree to it without his having any option in the matter and in respect of the £200,000 it is certainly a fact that he was unable either at the time or subsequently to withdraw his money, or even to reinvest it in securities which would have given him a greater return than 3 per cent. It was held by some of my witnesses that the present-day value of the original investment of £200,000 in 1895 is something of the order of a million pounds, but had the Sultan been free to reinvest his capital, he might have gained or he might have lost by such investment and it is by no means certain that the capital sum would now amount to as much as £1,000,000. I am advised that an investor with moderate good fortune could perhaps have doubled the value of his investment by the present day. However this may be, these are purely hypothetical arguments and I do not feel that they should carry much weight.

86. In all the circumstances, I recommend that, on the abrogation of the 1895 Agreement, the sum of £200,000 should be refunded in full and, in addition, that the Zanzibar Government should receive a further payment to take account of the very peculiar circumstances in which the loan was made and the pressure which was put upon the Sultan to employ the money in this way. I suggest that this payment should be 100 per cent of the original sum, making a total of £400,000 to be paid to the Zanzibar Government.

**(c) The Annuities of £10,000 and £1,000**

87. I further suggest that on the abrogation of the Agreement a capital sum should be paid to the Zanzibar Government to compensate for the extinction of its entitlement to customs duty derived from Mombasa and the Strip. I suggest that these annuities of £10,000 per annum in respect of the Kenya Protectorate and of £1,000 per annum in respect of Jubaland should be capitalized. As in the case of the loan of £200,000, some of my witnesses suggested that an additional payment should be made to take account of the decline in money values since the 1895 Agreement was entered into. However, I incline to the view that the improvements in the Port of Mombasa and its surroundings have resulted solely from action by Her Majesty's Government and the mainland East Africa Governments and not from any initiative by the Sultan or the Zanzibar Government. Indeed, Zanzibar has received an annual sum over the last sixty-odd years in respect of customs duty which has cost her nothing whatever to collect. In the circumstances, I consider as adequate the payment of a capital sum of £275,000 as being approximate to a 25 years' purchase, a precedent for which I find in article 4 of the Anglo-Italian Convention of 15th July, 1924, relating to the cession of Jubaland.

I therefore recommend that the Zanzibar Government should be paid a total sum of £675,000 in full and final settlement of any claims in respect of the Coastal Strip of Kenya. Of this sum, I recommend that Her Majesty's Government should pay the £400,000, as the original hard-bargaining which forced the Sultan to lend the money to Her Majesty's Government was done by Her Majesty's Government and not by Kenya. I also recommend that Her Majesty's Government should pay the capitalized sum of £275,000 in respect



of Jubaland and also that, as Kenya has been in the past, and will continue to be, the main beneficiary in respect of customs revenue, she should pay the remaining £250,000.

**(d) The Sultan's Sovereignty**

88. Such a settlement would extinguish the claims of the *Zanzibar Government* but it would not affect the *Sultan's* sovereignty over the Strip. Since my recommendation is that the Coastal Strip should be fully integrated administratively with Kenya on that country's achieving full internal self-government, and that, should the Kenya Government agree that the Sultan's sovereignty should continue unaltered, and that a new Agreement should be negotiated between the Sultan and the Kenya Government to give effect to this, no further action would be required if the Kenya Government accepts this recommendation.

Should, however, the Kenya Government be unwilling to come to such an agreement and to acknowledge the Sultan's continuing sovereignty, then there seems to me no alternative but to invite the Sultan to renounce it. His sovereignty is, of course, a nebulous asset at the present day but I should recommend that a capital sum of £100,000 be paid personally to him, for disposal as he thinks fit, in full compensation for the loss of his rights. I make no apology for determining the sum at £100,000. It is a completely arbitrary figure as in a matter of this kind it must be. I recommend that Her Majesty's Government should pay this compensation to the Sultan, and not the Kenya Government; for although it is Kenya who will benefit by absorbing the Strip into her independent sovereignty, it was the British Government who in 1895 acknowledged the Sultan's sovereignty and who since then by their administration of the Colony and the Protectorate as a unit, have welded both areas so closely together that no other future is possible but integration.

## VII—SAFEGUARDS

**(a) The Coastal Strip in General**

89. I feel strongly that to meet the legitimate and very real anxieties of the Coastal minorities, which I have described in Chapter IV, certain safeguards should be given them when the Strip is incorporated, whether administratively only or completely, into Kenya and that these should be entrenched in Kenya's new self-government and subsequent independence constitutions. In my view these should take the following forms:—

- (a) If the Kenya Government will agree, the Sultan's sovereignty should continue to be recognized. Although this would be a purely nominal safeguard, the retention of the Sultan's sovereignty will assure the Muslim minorities that no too drastic alterations are contemplated; that historical rights are being maintained; and that the Kenya Government is sympathetic to their customs and mode of life. I recognize that for Kenya leaders to accept this is asking much, as many of them have already taken their stand, but I would hope that a statesmanlike gesture of this sort which can do Kenya no conceivable harm and lead to no practical lessening of the Kenya Government's power, would be worth making in order to win the confidence of the Arab and other Coastal minorities.
- (b) A code of human rights should be "entrenched" in the Constitution safeguarding the exercise of all those rights universally regarded as the heritage of all inhabitants of free and democratic states. I have in mind something of the kind included in the Indian or Nigerian independence constitutions—and by "entrenched" I mean unalterable except by an

overwhelming majority vote, as constitutionally defined, in the legislature. The individual should have access to the courts of law in order to protect his exercise of such rights and to prevent their being infringed by the Executive authority. As the right to practise one's religion, whatever it may be, will certainly be included in such a chapter, and indeed is already included in the present Kenya (Constitution) Order in Council in its fourth Schedule, the Muslim communities of the Coast will have their right of worship adequately protected and no further provision is necessary.

- (c) The Muslim religion is, however, not only a faith, it is a way of life and one of the most cherished rights of a Muslim is the exercise of the Sharia law in all his personal affairs. Cases arise concerning marriage, divorce, alimony, trusts and inheritance which have their own method of settlement in the Sharia law. At present the Muslims of the Coast have a number of Judges (Kadhis) who advocate in such matters according to Muslim law. I would strongly recommend that this system be continued. At present the Kadhis, who are really Arab or Muslim magistrates, are quite separate and distinct from the Judiciary. I consider that this is anomalous and that they should be integrated within the Judicial system proper under the Chief Justice's administration. I recommend that a Chief Kadhi should be appointed together with perhaps three Kadhis, one for Mombasa and its surroundings, one for Malindi and Lamu, and one for Vanga and the south. Such officers should be Muslims, although not necessarily Arabs, and they should have an adequate degree of competence in Sharia Law. I consider also that on their being fully integrated in the Judicial Department, they should be liable for posting to any area where Muslims reside and where cases are submitted for consideration under Sharia Law. I consider that the criterion that the Kadhis should be Muslims will counter the suggestion on the part of the Africans that the provision is discriminatory, while at the same time providing the Arabs and Swahilis and Muslim Indians with a reasonable safeguard in a matter in which I consider they have a right.
- (d) Another valued part of the present administration on the Coast is the existence of Arab administrative officers, Liwalis and Mudirs. These officers who are also junior magistrates are part and parcel of the life of the Muslim community. I would recommend that some such arrangement as I have suggested for the Kadhis be made for them not so much because they are essential cogs in the machine as because to the Arab people they represent a stabilising element. At present these officers are regarded as appendages of the Provincial Administration. I suggest that they should become members of the Administrative Service proper and should have the same qualifications as other administrative officers. At the same time, however, I would not recommend that they should generally be liable for posting in other areas outside the Coast, and I would regard it only as reasonable to send such Swahili speaking officers who might well include some of the present Liwalis and Mudirs to the areas where their presence is required, i.e. on the Coast. I consider that, as for the Kadhis, the Liwalis and Mudirs should be Muslims, but not necessarily Arabs. As regards my recommendation that Liwalis and Mudirs should not be liable for interchange and therefore for service outside the Coast, I have considered the suggestion advanced to me in the context of ideas for forming the Coastal Strip and the Coast Province as one of the regions of an independent Kenya, that there should be established an advisory committee whose function it should be to approve

the appointments and transfers made by the Public Service Commission. It was suggested that such an advisory committee would prevent the central government of an independent Kenya from appointing in certain areas officers of the central government who might be unsympathetic to the inhabitants of those areas and generally act to their detriment. I recognise and sympathise with fears of this kind, and I would regard such an advisory system as being of considerable value if some form of regionalism or an East African Federation is established. I do not, however, believe that this arrangement could be effective at present and I suggest, particularly since the bulk of the Muslim community of Kenya is living on the Coast, that these Muslim administrative officers could properly be posted to the Strip. I recommend for consideration the establishment of additional promotion posts in order to ensure that such officers should not suffer disadvantageously from being appointed in their local areas, but I do not think that it is for me to advise on the precise form and structure which such an administrative system applicable to the Coast should take.

- (e) One of the greatest fears of the Coastal minorities is that unless their land titles are acknowledged and preserved their lands will be invaded and taken from them by squatters and invaders from up-country. I understand that similar fears are found in other parts of Kenya and may be, if a suitable safeguard can be found for the Coast, it will be applicable elsewhere. I have given this matter considerable thought and have discussed it with many of those who gave me their views. In the circumstances, I recommend the setting up, at an early date under an Order in Council, of a Coast Land Board, and that such a provision should be carried on into the self-government and independence constitutions.

It should be the general function of the Board to advise the Government and the Legislature on land policy in the Coastal Strip with special reference to:—

- (a) the disposal and use of public lands;
- (b) the best use of uncultivated privately owned lands;
- (c) the settlement of disputes between landlords and tenants;
- (d) the preparation of a code regulating the relations of landowners and their labourers;
- (e) the transfer of land owned by local coastal people to persons from outside the Strip and to foreigners.

In addition, it should be the duty of the Board to scrutinise proposed legislative and administrative measures concerning land in order to maintain the interests and rights of the Coastal people. The Board should also be consulted before assent is given to any individual land transaction in such cases as appear to affect the general interest of the Coastal people.

In all such matters the Board's recommendations would not be final but should be given the most careful consideration by the ultimate authorities. In one matter, however, I recommend that the Board should have the right to make the final decision and that is in any proposal to establish land settlement schemes within the Coastal area. In such a case I recommend that the Board should have the legal right to approve or veto the allotment of land to tribes-people not indigenous to the area.

I suggest that such a Board might consist of a Chairman, eight elected members and a number of nominated members not exceeding four and that the nominated members should hold office for not more than two years and the elected members for not more than three.

The qualifications and disqualifications for appointment as a member of the Land Board should be those applicable in respect of membership of the Legislature. It would probably also be desirable for members of the Legislature representing the people in the Coastal Strip to be *ex officio* members of the Board. Its Chairman should be the Provincial Commissioner, at least at the start. I recommend that membership of the Land Board should be restricted to people who are resident on the Coast, or who are representatives of interests on the Coast, and that it should also reflect the various races who dwell on the Coast. I consider that, of the eight elected members, who should be elected on a common roll, four should represent the Miji Kenda and other African peoples, and four the Arabs, Swahilis, Asians and Europeans. The interests of the minority groups could, I believe, be served most effectively by reserving four of the members to them alone, as I have suggested,

- (f) Fears were expressed to me about Arab education and particularly the teaching of Arabic script. I have considered whether some form of institutional safeguards should be devised to assuage this anxiety or whether it would be sufficient to include this matter within a "Bill of Rights". On balance I consider that these fears can best be met by a local Education Board for the Coast, whose duties and functions would be to scrutinise all legislative and administrative proposals for changes which might affect the teaching of Arabic and Arab script in Arab educational institutions on the Coast and make recommendations to the Ministry of Education about them. I would recommend that the Board be constituted on the lines of the Coastal Land Board which I have dealt with in my previous paragraph. Since I would propose that membership be confined to the Muslim community only, I would regard nomination by the provincial authorities or by the central government as being a perfectly adequate method of appointment.

#### **(b) The Port of Mombasa**

90. I have mentioned in one or two places earlier in this Report, the entire dependence which Uganda places on the rights of uninterrupted free transit for her exports and imports through the Port of Mombasa, and the lesser but important needs of Tanganyika. Should my recommendations for the integration of the Strip be accepted, it will be necessary for these rights to be secured in future. It is essential that freedom of transit should be guaranteed for up-country trade through the Port. This will necessitate a continuation of the present arrangements for railway and port facilities in the Coastal Strip, and indeed throughout Kenya. The British Government is a signatory to the Convention and Statute on Freedom of Transit which was signed at Barcelona in 1921 and which guarantees the right of free access to the Coast for land-locked States. I therefore recommend that if the Coastal Strip, now under the Sultan's sovereignty and British protection, becomes an integral part of Kenya, Her Majesty's Government should do their utmost to ensure that the new Kenya Government on independence accedes to the Barcelona Convention on Freedom of Transit, and also to the Geneva Convention on the International Regime of Railways, which was signed in 1923. No doubt if an East Africa Federation comes into being railways and ports will become responsibilities of the Federal Government and the rights of all the

States included in the federation will be safeguarded; but until that day comes, Uganda and, to a lesser degree, Tanganyika, will depend upon the willing compliance of the Kenya Government to these international agreements.

The independence constitution should include "entrenched provisions" to this effect.

### VIII—SUMMARY OF RECOMMENDATIONS

91. A summary of my recommendations is as follows:—

- (1) The Coastal Strip should be integrated administratively with Kenya before self-government and independence takes place.
- (2) This integration could most conveniently be achieved by Her Majesty's Government abrogating the 1895 Agreement and by a new Agreement on similar terms being negotiated between the Sultan of Zanzibar and the Kenya Government whereby the Sultan's nominal sovereignty is maintained and Kenya's complete administrative authority over the Strip is secured.
- (3) Should it prove impossible to negotiate such a new Agreement, then the Sultan of Zanzibar should be invited to renounce his sovereignty and the Strip should be annexed to Kenya. In such circumstances, I recommend that the Sultan should receive suitable compensation for the loss of his sovereignty, and I have suggested the sum of £100,000 which I recommend that Her Majesty's Government should pay.
- (4) In the event of either of these solutions taking place and the Strip being incorporated administratively or completely with Kenya, it is recommended that safeguards be included in the new Kenya Constitution to preserve the rights of the Coastal people. I recommend that these should be:—
  - (a) a declaration of human rights including security of religious worship;
  - (b) safeguards for the maintenance of the Sharia law for Muslims and the retention of the Kadhis Courts;
  - (c) arrangements for the future appointment of Muslim administrative officers;
  - (d) a Coast Land Board;
  - (e) an Education Board.
- (5) I recommend that on abrogating the Agreement Her Majesty's Government should pay to the Zanzibar Government £400,000 as repayment of the forced loan of £200,000 made in 1895 with 100 per cent. increase to allow for the peculiar circumstances of the original loan.
- (6) The Kenya Government should pay to the Zanzibar Government £250,000, being the capitalised value of the £10,000 which is being paid annually to the Zanzibar Government in lieu of the estimated customs duty collected by the Sultan prior to 1895.
- (7) Similarly, the sum of <sup>25</sup>£250,000 should be paid to the Zanzibar Government by Her Majesty's Government in respect of the £1,000 annuity now paid for Jubaland.

- (8) I recommend that in the self-governing and independent constitution of Kenya, adequate safeguards should be included to secure the rights of the Uganda and Tanganyika Governments in the Port of Mombasa.
- (9) I recommend that, if any system of regional or county administration is set up in Kenya, the Coast Province of Kenya, including the Coastal Strip, should be one of these counties.
- (10) I recommend that if the East African territories decide in the years to come to enter into a Federation, careful consideration should be given to the suggestion that Mombasa—and perhaps the Coastal Strip itself—be declared Federal territory and be administered by the Federal Government.

JAMES W. ROBERTSON (Sgd.)  
*Commissioner.*

W. T. HULL (Sgd.)  
*Secretary.*

*London, 23rd November, 1961.*

## APPENDIX A

*The 1895 Agreement between Great Britain and Zanzibar*

AGREEMENT BETWEEN GREAT BRITAIN AND ZANZIBAR RESPECTING THE POSSESSIONS OF THE SULTAN OF ZANZIBAR ON THE MAINLAND AND ADJACENT ISLANDS, EXCLUSIVE OF ZANZIBAR AND PEMBA—SIGNED AT ZANZIBAR, 14TH DECEMBER, 1895.

Zanzibar Possessions on Mainland and Islands, exclusive of Zanzibar and Pemba, to be administered by British Government.

His Highness Seyyid Hamed bin Thwain, Sultan of Zanzibar, agrees for himself, his heirs and successors, that as regards his possessions on the mainland and adjacent islands, exclusive of Zanzibar and Pemba, the administration shall be entrusted to officers appointed direct by Her Britannic Majesty's Government, to whom alone they shall be responsible.

These officers shall have full powers in regard to executive and judicial administration, the levy of taxes, duties, and tolls, and the regulation of trade and commerce. They shall have control over public lands, forts, and buildings, over all roads, railways, waterways, telegraphs and other means of communication, and shall regulate questions affecting lands and minerals. All custom duties, taxes, and dues shall be accounted for to, and shall be expended by, Her Britannic Majesty's Government.

All assets purchased by the Sultan's Government from the Imperial British East Africa Company at the time of the surrender of its Concessions shall be the property of Her Britannic Majesty's Government, who shall also retain as their own property all public works of any description which may be constructed by the officers administering under this Agreement.

Her Britannic Majesty's Government shall pay to the Sultan's Government annually the sum of £11,000, as well as of £6,000 representing interest at 3 per cent. on the sum of £200,000 disbursed by the latter for the surrender of the Company's Concessions, and for the purchase of its assets.

This Agreement shall not affect the sovereignty of the Sultan in the above-mentioned territories or the Treaty rights of foreign Powers.

Her Britannic Majesty's Government shall have the power of terminating this Agreement on giving six months' previous notice to the Sultan of Zanzibar of their intention to do so.

(Signature of Sultan in Arabic)

ARTHUR H. HARDINGE,  
*Her Britannic Majesty's Agent  
and Consul-General.*

Zanzibar,  
14th December, 1895.

## APPENDIX B

LIST OF ORGANISATIONS AND PERSONS WHO GAVE ORAL EVIDENCE TO, OR WHO WERE CONSULTED BY, THE COMMISSIONER

## I—Governors, Ministers and Senior Officials

- Sir Patrick Renison, K.C.M.G., Governor of Kenya.  
 Sir George Mooring, K.C.M.G., British Resident, Zanzibar.  
 Sir Edgeworth David, K.C.M.G., Administrator, E.A.H.C.
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- Mr. F. Bishop, Commissioner of Customs, E.A.H.C.  
 The Hon. E. N. Griffith-Jones, C.M.G., Q.C., then Minister for Legal Affairs and Acting Chief Secretary, Kenya.  
 Mr. D. W. Hall, Provincial Commissioner, Coast Province, Kenya.  
 The Hon. Mohamed Shamte Hamadi, M.B.E., Chief Minister, Zanzibar, and Members of the Zanzibar Executive Council.  
 The Hon. W. B. Havelock, Minister for Local Government, Kenya.  
 Mr. G. P. G. MacKay, General Manager, Railways, E.A.R. & H.  
 The Hon. K. W. S. MacKenzie, C.M.G., Minister of Finance, Kenya.  
 The Hon. C. G. F. F. Melmoth, C.M.G., Minister of Finance, Uganda.  
 Sheikh Salim Mohamed Muhashamy, Liwali for the Coast, Kenya.  
 The Hon. R. G. Ngala, Leader of Government Business, Kenya.  
 The Hon. Michael Blundell, M.B.E., Minister for Agriculture, Animal Husbandry and Water Resources.  
 The Hon. M. Muliro, Minister for Commerce, Industry and Communications.  
 Mr. J. F. C. Williams, Port Manager, E.A.R. & H.

## II—Private Individuals

## (a) Zanzibar

- \*Major C. E. V. Buxton, M.C.  
 Mr. Ali Ahmed Jahadhmy.  
 The Hon. Sheikh Abeid Karume, M.L.C.  
 The Hon. Sheikh Hasnu Makame, M.L.C.  
 The Hon. Sheikh Ali Shariff Musa, M.L.C.  
 Mr. V. S. Patel.  
 The Hon. Sheikh Saleh Saadala, M.L.C.  
 The Hon. Sheikh Othman Shariff, M.L.C.  
 The Hon. Rustom Sidhwa, M.L.C.

## (b) Kenya

## (i) Kilifi

- Mr. J. Bilaki and 14 members of K.A.D.U.  
 Mrs. J. Gedge.  
 Mr. Said Hade and 12 Citizens of Kilifi.  
 \*Mr. S. Horne.  
 \*Mr. J. Kitsao and 15 Miji Kenda.  
 \*Mr. E. H. Robins.

## (ii) Lamu

- Sheikh Omar Adam.  
 Sheikh Abdullah Ali.  
 Sheikh Hussein Ali.  
 Mr. Mohamed Ali.

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\* Written evidence also.



- \*Mr. Dickson Angore.  
Mr. Kenga Angore.  
Sheikh Ali Athman.
- \*Mr. Amir Awadh.
- \*Sheikh Abdulla Hassan Bates.  
Mr. Omar Boroso.
- \*Sheikh Khamis Juma Buguu.  
Mr. Moris Dickson.  
Sheikh Mohamed Faraji.
- \*Sheikh Abdullah Mohamed Jahadhmy.
- \*The Hon. A. M. Jeneby, M.L.C.
- \*Mr. Joshua Jillo.  
Sheikh Fadhil Mohamed Maawiya.  
Sheikh Haji Madi bin Ali and 22 Citizens from Patta and Lamu.  
Sheikh Ali Maka and 19 Bajuni delegates from Patta, Faza, Siu,  
Chundwa, Mbwajumale, Kizingitini, Mkunumbi, Witu, Mokowe  
and Kiunga.  
Sheikh Menesi bin Abdulla.  
Sheikh Awadh Said.  
Sheikh Abdu Shongolo.
- \*Mr. Masuluti Simeon.  
Mr. K. S. Swed.
- \*Sheikh Juma Ware.

(iii) *Malindi*

- Sheikh About Abdi.  
Sheikh Abdulla bin Salim Bakhshuwen.
- \*Mr. Ali bin Bakari.
- \*Mr. Shaban Ali.  
Sheikh Salim Aiyam.  
Mr. J. H. Bailey.  
Mr. Moteram Morar Chohan.  
Sheikh Omar Deli.  
Mr. Mohamed Saleh Gaji and 19 citizens of Malindi.
- \*Dr. G. R. Hunter.  
Mr. Mohamed Hussien and 6 members of the Kenya Protectorate  
Nationalist Party.  
Mr. W. Kajoro and 20 Miji Kenda.
- \*Mr. Japhet Katana.  
Mr. J. Liwali.
- \*Mr. Muhando bin Hamisi.  
Sheikh Mohamed Ali Mulla.  
Mr. Musa bin Ali.  
Mr. Gudamali Pirbhai.  
Mr. Shirji Punja.  
Sheikh Turbah Rajabali.
- \*Mr. Bakari Rarua.  
Mr. Mawji Ratna.
- \*Mr. Salim bin Lali.  
Mr. Sudi bin Taufiki.  
Mr. Abdallah Mohamed Suleiman.  
Mr. R. Thompson.

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\*Written evidence also.

(iv) *Mombasa*

- Sheikh Jama Abdi and 4 former members of the Arab Rifles.
- \*Mr. S. M. H. Aboo.  
Shariff Abdalla Abubaker.  
Sheikh Abdulmalik Abdulrahman.  
Mr. Omar Abubakar bin Jusuf and 14 members of the Coastal League.
- \*Sheikh Ahmed bin Musalam bin Juma Timami.  
Sheikh Abdalla Aidarus.  
\*Mr. J. D. Akumu.  
Sheikh Ali bin Mohamed.
- \*Sheikh Ali bin Mohamed bin Yuus and 5 elders of the Nine Swahili Tribes.
- \*Major R. J. Q. Ambrose.  
The Hon. S. K. Anjarwalla, M.L.C.  
Mr. R. Asienwa.  
Mr. M. Bakari.  
Sheikh Ahmed bin Salim Bakhshwen and 9 members of the Central Arab Association.
- \*Sheikh Omar Rashid Bakuli and 12 members of the Coast People's Party.
- \*Mr. S. M. Bal-Ala.  
\*The Hon. Omar S. Basaddiq, M.L.C., and a delegation of 5 from Takaungu.  
Mr. A. Bentley-Buckle.
- \*Sheikh Bilarab bin Shamis bin Sultan El-Batwashi.  
\*Mr. N. M. Brahmhatt.  
\*Mr. J. E. L. Bryson.  
\*Mr. A. J. Cassam.  
Mr. Abdulla Charaghdin and a delegation of 21 from the Nine Swahili Tribes.  
The Hon. T. M. Chokwe, M.L.C.  
The Hon. R. P. Cleasby, M.L.C.  
Mr. S. Evans.  
Mr. Yusuf Ahmed Fadhil.  
Mrs. K. M. Fannin.  
Mr. Shughuli Hamadi and 24 members of the Digo National Union.
- \*Miss Y. H. E. Hartford.  
\*Mr. Haji Hasham.  
\*Dr. S. G. Hassan.  
\*Mr. G. A. Heath.  
\*Sheikh Id bin Faraj Najda.  
Mr. I. T. Inamdar and 6 members of the Kenya Freedom Party.  
Mr. K. H. Ismail.
- \*Mr. Mohamed Jahazi.  
\*Mr. A. F. Janoo.  
Mr. Juma Jusuf.  
\*Mr. S. A. Kanjee.  
\*Mr. L. J. Karissa.  
Mr. Naser Khalfan.  
Sheikh Mohamed Lawake.  
The Hon. R. S. Matano, M.L.C.  
Mr. J. Mbotela.  
Mr. D. G. Mehta.

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\*Written evidence also.

- Mr. Abulrahman Miran and a delegation of 3 Baluchis.  
 Sheikh Aboobakar Modhan.  
 Mr. Abdulrahman Mohamed.  
 Mr. Khamis Mohamed bin Juma.  
 Mr. Naser Mohamed bin Khamis.  
 Mr. Omar Mohamed.  
 \*Mr. J. J. Mugalla.  
 Mr. F. J. M. Mukeka.  
 Mr. J. Mutukei.  
 Mr. Said Mwayogi and a delegation of 3 from Kwale District.  
 Mr. R. M. Mwachangoma.  
 Mr. Mzee bin Mwidadi and a delegation of 4 from Jomvu.  
 \*The Hon. Abdilahi Nassir, M.L.C.  
 Mr. S. Napier-Bax.  
 Mr. P. Ngei.  
 \*Mr. Japhet Nyaga.  
 \*Sheikh B. Obo Din.  
 Mr. Yahya Ali Omar.  
 Mr. E. M. I. Omara and 7 members of the Tana and Lamu United Front.  
 Mr. Sammy Omari and 11 members of C.A.P.U.  
 Mr. Okondo Onyango.  
 Mr. J. M. Oyangi.  
 Mr. M. S. Patel.  
 \*Mr. Nagin Patel and 5 members of the Indian Association.  
 \*Sheikh Ahmed Rahamy.  
 \*Dr. M. A. Rana, O.B.E.  
 Mr. E. Reeve.  
 Mr. E. R. Rodwell.  
 Mr. O. P. Sachdeva.  
 Sheikh Ahmed Saleh.  
 Mr. Ahmed Salim bin Abdalla.  
 \*Sheikh Seif bin Ali El-Marshad El-Bahri.  
 Mr. S. A. Shah.  
 \*Mr. S. P. Shah.  
 Sheikh Mohamed Shallis.  
 Mr. Ahmed Mohamed Shallo and 8 members of the Central Bajuni Association.  
 Sheikh Hassan Omar Sharman.  
 Mr. A. G. A. Shikeley.  
 Mr. J. M. Shikuku.  
 Mrs. Somoe bint Shallo.  
 \*Miss K. K. Sondhi.  
 \*Mr. J. R. Sondi.  
 \*Mr. P. R. Spendlove.  
 Mr. J. D. Stringer.  
 Sheikh Abdalla Mohamed Suleman.  
 Mr. J. H. S. Todd.  
 Mr. A. Twelftree.  
 Mr. C. G. Usher.  
 Mr. H. G. Wilkinson.  
 \*Sheikh Zahran bin Mohamed El-Aufny.

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\*Written evidence also.

(v) *Msambweni*

Mr. Hamisi Abdalla.  
 Mr. Said Abdalla.  
 Mr. Abdalla Ali.  
 Mr. Omari Ali.  
 Sheikh Rashid Azzan.  
 Mr. Abdalla Bakar.  
 Mr. Mohamed Bakar.  
 Mr. Abdalla Khamis Bambaalo.  
 Mr. J. H. Bilashaka and 17 Miji Kenda.  
 Mr. Hassan Chembea.  
 Mr. Jackson Gideon.  
 Mr. Athman Ingu.  
 Mr. Ali Juma.  
 Mr. Hamisi Juma.  
 Mr. Masha Kalamu.  
 Mr. Hassan Kioka.  
 Mr. Ali Masudi.  
 \*Mr. S. R. D. Msechu.  
 Mr. Khamis Omar.  
 Mr. Fundi Reje.  
 Mr. Bakari Salim.  
 Mr. Masumbuko Sani.  
 Mr. Kalamu Seleman.  
 Mr. Salim Seleman.  
 Mr. Onesmus Zani.

(vi) *Nairobi*

Mr. F. E. Abdulla.  
 Mr. Esmail Adam.  
 The Hon. Sheikh M. A. Alamoody, M.L.C.  
 The Hon. R. S. Alexander, M.L.C.  
 Mr. Shams ud Deen.  
 Mr. Haji Ilam Din.  
 Mr. Seraj Din.  
 Mr. G. K. Ishani.  
 Mr. S. K. Kapila.  
 The Hon. T. J. Mboya, M.L.C.  
 Mr. I. K. Mehta.  
 The Hon. A. J. Pandya, M.L.C.  
 Mr. G. M. D. Paracha.  
 Mr. R. B. Patel.  
 Mr. A. Rauf.  
 Mr. G. Sarwar.  
 \*The Hon. K. P. Shah, M.L.C.  
 The Hon. Chanan Singh, M.L.C.

(vii) *Vanga*

Sheikh Seyyid Abubakar Abaad.  
 Mr. Kassim Chuo and 8 members of K.A.D.U.  
 Mr. Boko Faraji and 25 Miji Kenda.

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\*Written evidence also.

†Shariff Seyyid Kassim bin Mohamed.  
 †Sheikh Kale Madi.  
 Sheikh Mbarak bin Pando.  
 †Mr. H. Mbwana.  
 Sheikh Abdulrahman Mshee.  
 Sheikh Tajir Mwachanga.  
 Sheikh Said bin Yusuf.  
 Sheikh Singo bin Mshihiri.

### APPENDIX C

#### LIST OF ORGANISATIONS AND PERSONS WHO SUBMITTED WRITTEN EVIDENCE TO THE COMMISSIONER

##### I—Governments and Administrations

Kenya Government.  
 Uganda Government.  
 Zanzibar Government.  
 East African Railways and Harbours Administration.  
 East African Customs Department of the East Africa High Commission.

##### II—Organisations and Associations

###### (a) Zanzibar

Afro-Shirazi Party.  
 Zanzibar Nationalist Party.  
 Zanzibar and Pemba Peoples Party.

###### (b) Kenya

Afro-Asian Association.  
 Baluchi Association.  
 Central Arab Association of Kenya.  
 Central Banjuni Association.  
 Coast Peoples Party.  
 Coast European Association.  
 Coastal League.  
 Cutchi Muslim Anjuman.  
 Digo National Union.  
 Indian Association, Mombasa.  
 Jomvu Social Club.  
 Kenya African Democratic Union (Various Branches).  
 Kenya African National Union (Various Branches).  
 Kenya Freedom Party.  
 Kenya Protectorate Nationalist Party.  
 Likoni and District European Association.  
 Malindi District European Association.  
 Malindi Farmers Association.  
 Mombasa Muslim Political Union.  
 National Union of Northern Coast of Kenya.  
 Sunni Muslim Society.  
 Taita and Taveta Union.  
 Tana and Lamu African United Front.

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† Written evidence also.

## III—Private Individuals

## (a) Zanzibar

\*Major C. E. V. Buxton, M.C.

## (b) Kenya

Sheikh Menesi Abdulla.

Mr. Abdulrahman bin Miraa.

Mr. S. A. M. Aboo (and approximately 800 citizens of Mombasa Tudor and Old Town Constituency).

\*Mr. S. M. H. Aboo.

Mr. A. Abubakar.

Mr. K. Abubakar.

Mr. Ali Ahmed.

Mr. Ahmed bin Mohamed.

\*Sheikh Ahmed bin Musalam bin Juma Timami.

\*Mr. J. D. Akumu.

\*Mr. Ali bin Bakari.

\*Sheikh Ali bin Mohamed bin Yunus.

Mr. Said Ali.

\*Mr. Shaban Ali.

Mr. V. Salim Ali.

\*Major R. J. Q. Ambrose.

\*Mr. Dickson Angore.

\*Mr. Amir Awadh.

Sheikh Ahmed Salim Said Badhin (and 53 Bajuni).

\*Sheikh Omar Rashid Bakuli.

\*Mr. S. M. Bal-Aia.

\*The Hon. Omar S. Bassaddiq, M.L.C.

Sheikh Salim Mohamed Basty (and 140 residents of Takaungu).

\*Sheikh Abdulla Hassan Bates.

Mrs. S. Bausi.

\*Sheikh Bilarab bin Shamis bin Sultan El-Batwashi.

\*Mr. N. M. Brahmhatt.

\*Mr. J. E. L. Bryson.

\*Sheikh Khamis Juma Buguu.

\*Mr. A. J. Cassam.

Mr. Abdullah Chiragh-Din.

Mr. Abubakar Chiragh-Din.

Mr. Ali Chiragh-Din.

Mr. Mohamed Chiragh-Din.

Mr. S. Chiragh-Din.

Mr. Hasham A. S. Damji.

\*Sheikh B. Obo Din.

Mr. D. Edalji.

Mr. Omar Ahmed Fakh.

Mr. M. Farazi.

Mr. A. H. Fish.

Mrs. P. Gaymer.

Mr. C. M. Giles.

Sheikh Hamed bin Salem bin Hamed El-Busardy.

Mr. S. Hamdun.

Mr. H. G. S. Harrison, M.B.E.

\*Miss Y. H. B. Hartford.

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\* Oral evidence also.

- \*Mr. Haji Hasham.
- \*Dr. S. G. Hassan.
- \*Mr. G. A. Heath.
- \*Mr. S. Horne.
- \*Dr. G. R. Hunter.  
Sheikh Hyder Mohamed El-Kindy.
- \*Sheikh Abdulla Mohamed Jahadhmy.
- \*Mr. Mohamed Jahazi.
- \*Mr. A. F. Janoo.
- \*The Hon. A. M. Jeneby, M.L.C.  
Mr. K. S. A. Jeneby.
- \*Mr. Joshua Jillo.  
Sheikh M. bin Hussen bin Mabrik Jongoo.
- \*Mr. O. Abubakar bin Jusuf.  
Mr. Karisa Kalume.
- \*Mr. S. A. Kanjee.  
Mr. A. S. Karisi.
- \*Mr. L. J. Karissa.
- \*Shariff Seyyid Kassim bin Mohamed.
- \*Mr. Japhat Katana.  
Mr. S. Khamais.  
Mr. J. G. Kiti.
- \*Mr. J. Kitsao (and 13 members of the Miji Kenda in Kilifi).  
Mr. Y. Komora.  
Mr. and Mrs. W. G. Lillywhite.  
Sheikh A. A. Maawiya.  
Sheikh Fadhil Maawiya.
- \*Sheikh Kale Madi.  
Mr. J. H. Madzitsa.  
Mrs. Z. Mahmoud.  
Mr. J. S. J. Mambo.  
Mr. T. Maneno.  
Mr. Elisha Mbottomara.
- \*Mr. H. Mbwana.  
Mr. Rashid Mbwana.  
Mr. D. G. Mehta.  
Mr. Mahmoud Mohamed.  
Mr. Mzee Mohamed.  
Mr. M. S. Mohamed.
- \*Mr. S. R. D. Msechu.
- \*Mr. J. J. Mugalla.  
Sheikh Muhammad bin Shambi.
- \*Mr. Muhando bin Hamisi.  
Mr. V. R. Murray.  
Mr. Musa bin Omari.  
Sheikh N. A. M. Muses.  
Mr. J. J. Mvoyi.  
Mr. R. A. Mwakoi.  
Mr. S. H. Mwayogwe.  
Mr. J. Mwero.
- \*Sheikh Id bin Faraj Najd.
- \*The Hon. Abdilahi Nassir, M.L.C.  
Mr. Stephen Ngobe.
- \*Mr. Japhet Nyaga.

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\* Oral evidence also.

- Mr. Ahmed Omar (and approximately 1,500 citizens of Mtwapa, Mavueni, Takaungu, Kilifi, Roka, Mtondia, Mida, Gede, Malindi and Mambui).
- Mr. S. T. Omar.
- Mr. Y. A. Omar.
- Mr. S. Onyango.
- Mr. R. B. Pandya.
- \*Mr. Nagin Patel.
- Mr. Sumant C. Patel.
- Mr. Emmanuel Ponda.
- \*Sheikh Ahmed Rahamy.
- \*Dr. M. A. Rana, O.B.E.
- \*Mr. Bakari Rarua.
- \*Mr. E. H. Robins.
- Mr. H. E. B. Robinson.
- Mrs. K. S. Robinson.
- Mr. Elijah Rupia.
- Mr. O. P. Sachdeva.
- \*Mr. Salim bin Lali.
- Mr. Ahmed I. Salim.
- Mr. Mohamed Salim.
- \*Sheikh Seif bin Ali El-Marshad El-Bahri.
- \*The Hon. K. P. Shah, M.L.C.
- Mr. N. C. Shah.
- \*Mr. S. P. Shah.
- Mr. M. M. Shallo.
- Mr. H. A. Shamti.
- Sheikh Shee bin Omar bin Kubo.
- \*Mr. Masuluti Simeon.
- \*Mr. J. R. Sondhi.
- \*Miss K. K. Sondhi.
- \*Mr. P. R. Spendlove.
- Mr. Sudi bin Taufiki.
- Mr. Soud Suleman.
- Mr. Juma Swale.
- Mr. W. W. Waciuma.
- \*Sheikh Juma Ware.
- \*Shiekh Zahran bin Mohamed El-Aufny.
- Mr. M. J. Zani.
- Mr. Mazumbuko Zani.

#### APPENDIX D

##### THE SWAHILI AND MIJI KENDA TRIBES

There is no doubt that traders and settlers from many parts of Asia, but chiefly from Arabia and Persia, were established on the East Coast of Africa before the Christian era. Emigration from these two countries to the East Coast of Africa received greater impetus, however, during the internecine struggles caused by the spread of Islam. This new influx started about 630 A.D. and it was during this period according to their own account, that the Twelve Tribes, the "Swahili" proper, settled on the Coast. Through intermarriage with the Africans they have gradually assumed a physical appearance more and more African in type; but they observe Arab customs and traditions, and support the Arab claim to *Mwambao* (the Coast State).

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\* Oral evidence also.



2. The Twelve Tribes are divided into two groups, the Three Tribes (Thelatha Taifa) and the Nine Tribes (Tisia Taifa). The Bantu names of the Three Tribes are Wachangamwe, Wakilindini and Watangana. It is not easy to name the Nine Tribes with any confidence; my interviews support what one authority has said, "it is difficult to obtain two identical lists from two different Swahili". However, there is more or less agreement on the following: Wajomvu, Wafaza, Wagunya, Wakatwa, Wakilifi, Wamtwapa, Wamvita, Wapate, Washaka.

3. The Bajuni claim that they comprise five of the Twelve Tribes—the Wafaza, Wagunya, Wakatwa, Wapate and Washaka. The Bajuni lands outside the Protectorate stretch from Kipini northwards to the present Kenya/Somali Republic border and include, with the exception of Lamu Island (which is part of the Protectorate), the islands of Manda, Patta, Faza and other smaller islands, together with what was once the Witu Sultanate, an area of about 1,200 square miles north of Kipini.

4. The Bajuni represent that they have been settled on the Coast from Kismayu to the Tana River since the earliest times. They claim that the centre of their people is the town of Brava in the Somali Republic and say that they were cut off from the rest of the Sultan's mainland dominions by a historical accident (the declaration of a German "protectorate" over Witu). This is the basis of their claims that their lands should be incorporated either within an autonomous Coastal State or within the Somali Republic.

5. The Miji Kenda or Midzi-chenda (also known as the Wanyika) comprise the following nine tribes: Giriama, Wadigo, Wachonyi, Waduruma, Waribe, Wakauma, Warabai, Wajibana, Wakambe. Of these sub-tribes, the Wadigo appear to have the best claim to be considered indigenous to the Coastal Strip. The great majority of the Miji Kenda support *Kenya Moja* (unitary Kenya).

#### APPENDIX E

##### AN ESTIMATE OF THE COST OF RECURRENT SERVICES IN THE COASTAL STRIP

Ministry	Gross Cost	A-in-A	Net Cost
Chief Secretary .. .. .	155,000	—	155,000
Education .. .. .	600,000	75,200	524,800
Health .. .. .	327,200	36,200	291,000
Labour and Housing .. .. .	52,100	1,100	51,000
Legal Affairs .. .. .	14,400	200	14,200
Agriculture .. .. .	121,000	1,000	120,000
Police .. .. .	416,000	—	416,000
Prisons .. .. .	146,000	—	146,000
Works .. .. .	702,000	86,000	616,000
Local Government .. .. .	208,000	10,000	198,000
Commerce and Industry .. .. .	33,000	1,500	31,500
Tourism, Forests and Wild Life .. .. .	60,000	—	60,000
*Loan Interest on Development Expenditure	52,000	—	52,000
Total .. .. .	2,886,700	211,200	2,675,500
High Commission .. .. .			130,000
GRAND TOTAL .. .. .			2,805,500

\* In regard to the Mombasa Water Supply the Government is subsidising a loan of £1½ million to the extent of 2½%. In regard to the Malindi and Mombasa airfields the Government is paying 6¼% approximately on £280,000.

## APPROXIMATE PUBLIC CAPITAL INVESTMENT IN THE STRIP

Government Buildings	.. .. .	£3,000,000
Water Supplies	.. .. .	£5,850,000

## APPENDIX F

## NOTE BY THE COMMISSIONER ON REGIONAL DEVOLUTION

The Kenya African Democratic Union have put forward proposals for semi-autonomous Regions in Kenya which they claim will meet the fears of minorities and minority tribes lest they be completely swamped by the bigger tribes in the country. This phenomenon is not confined to Kenya but has arisen in many other territories when the colonial power has shown that it intends to hand over authority to the African people concerned in the near future. The position was well described by Mr. R. S. Hudson, a former member of the Colonial Office:—

“When dependent territories are approaching self-government and the imperial power begins to relax direct control there is a tendency for the people to scent danger from the unknown future and, in particular perhaps, to fear that domination by a clique of their fellows, however democratically elected they may be will be substituted for the paternal and benevolent colonial power. They take alarm like a herd of game scenting danger and like them tend to huddle into their natural groups. The result is a resurgence of tribalism and the appearance of fissiparous tendencies. These tendencies are perfectly natural, but they are very dangerous because they may result in the present territories splitting up into a number of small States, all at loggerheads with each other, economically weak and unable to support efficient administrations. Such tribal States would have little chance of holding their own in the modern world and there would be a danger of their slipping back to barbarism, or being swallowed up by some outside power.”

2. In countries in which I have served, the Sudan and Nigeria, such movements occurred. In the Southern Sudan the Bantu peoples rebelled in 1955 before independence against the Arab Northerners at whose mercy they feared they would be. In Nigeria before independence in every region the smaller tribes advocated more States in order to avoid their being dominated by the larger units. In the Eastern Region for instance the Ibibios, Effiks and Annyangs wished to be free of the Ibos; in the Western Region, the Binis, Ijaws and Ijekris feared to be ruled by the Yoruba majority. Similar fears were prevalent in Northern Nigeria. A minorities commission went into the question and safeguards were suggested.

3. Clearly in my view a plethora of Regions or States cannot be for the ultimate good of a territory. Apart from the great increase of expenditure on overheads the creation of too many units inside a single territory must be detrimental to the unity and stability of the country as a whole.

4. There is however much to be said for a reasonable devolution of authority in local matters to a Local Authority, e.g. a County Council, and I believe that such devolution might have considerable value in reassuring the lesser Kenya tribes, that they would have a major share in their own administration. But such devolution, even if enshrined in the Constitution should not be such as to weaken the Central Government either administratively or financially, and in the ultimate resort the Central Government must have adequate authority to rule the country.

The example of Switzerland and its cantons was mentioned to me as what the protagonists of this idea would like to see—but of course the Swiss Constitution has a long historical background and there is general goodwill.

5. I have therefore examined these proposals with a view of seeing whether they would provide some assistance to the Arab and other groups on the Coastal Strip, who are afraid of being totally submerged by the up-country Africans. To begin with, for reasons given in the body of my report, I dismiss the Coastal Strip as a unit in itself, and consider that the Coast Province, the present administrative unit, is the smallest area possible.

6. I believe that there would be many advantages in setting up in the Coast Province, a Provincial, Regional or County Council. It could be composed of a majority of persons elected by the different interests in the area, with possibly 30 or 40 members. Such interests would be the various local Government bodies in the Province, e.g. the African District Councils, the Municipality of Mombasa, and the other Local Government bodies—I visualise that these bodies might elect from their members a number of representatives proportionate to the populations which they represent. All the elected members of the Central Legislature from the area should in addition be *ex officio* members. The Chairman would probably best be elected from among the members, though perhaps the first Chairman might be nominated by the Governor.

7. The powers of such a Council could be specified in the Kenya Constitution, and could include—

- (a) the execution of certain works, e.g. making and maintenance of roads; the construction and maintenance of county buildings, schools, etc.;
- (b) the supervision and expansion of education up to secondary level. The training of teachers would be a central responsibility;
- (c) the supervision of Health Services;
- (d) the supervision of land matters, i.e. the formulation of land policy within the county, the approval of land transactions and the maintenance of legal titles;
- (e) the development of agriculture on a county basis, the higher agricultural research being left to the Central Government;
- (f) consultation with the Police authorities upon the maintenance of law and order within the county, although the ultimate responsibility would remain with the Central Government;
- (g) advising the Central Government on the posting of Central Government officials to the county.

8. It would be essential if the council were not to become a mere debating society that it should have financial responsibilities. I visualise it being financed by certain taxes or percentage of taxes made over to it by the Central Government and also by grants-in-aid. These grants-in-aid would vary from county to county in order that poorer counties might be helped to reach the standards of development reached by the richer counties; and thereby differences would be ironed out.

9. The decisions of the Council, and of its committees approved by the full Council, would be conveyed to the Provincial Commissioner who whether an official or a politician would be responsible for their execution by the administrative or departmental authorities concerned. I visualise the functions of the Council being dealt with by sub-committees, whose composition should be based on representation of the various tribal or racial interests involved. The sub-committee on lands for instance would contain say four Africans, four repre-

sentatives of the Arabs, Moslems and Europeans, and one or two of the *ex officio* members, and similarly with the other committees. The sub-committees would have to have authority to deal with urgent matters themselves, but would have to report back to the Council from time to time.

10. It was pointed out to me that even if an organisation, such as I have sketched out above, was entrenched in the Constitution, a ruthless Central Government backed by a majority in the Central Parliament, could no doubt alter the Constitution, and abolish these provisions. There is no completely watertight way as far as I can see of preventing this ultimately, but it could be made more difficult, if a provision was included in the Constitution whereby such a County Council could only be suspended or abolished or have its powers diminished, if it itself voted by a considerable majority in favour of suspension or abolition, and if a number of County Councils were created it might be possible to ensure that only by all or a majority of such Councils agreeing to changes could these be made.

11. In this connection I have considered whether the Council of State, which was established in 1958 by the Kenya (Constitution) Order in Council could play a part in securing that the safeguards which I have suggested, are enforced. It is the general function of this body to advise the Governor or Legislative Council "In relation to the studies of matters affecting persons of any racial or religious community in Kenya". Particularly in Section 54 the Council has the duty of examining any Bill or Order which has the force of law to see if it is a "differentiating measure" i.e. one "disadvantageous to persons of any racial or religious community and not equally disadvantageous to persons of other communities, either directly by prejudicing persons of that community or indirectly by giving advantage to persons of another community".

Should the Council consider that any measure is "differentiating" it may advise the Legislature to amend it and if such amendment does not take place, there are statutory provisions to delay the legislation and to permit disallowance by the Secretary of State on behalf of The Queen.

It is not clear to me what form this Council will take after independence and indeed whether it will continue to exist. Disallowance by the Secretary of State must disappear and new provisions would have to be enacted to provide a new final arbiter. Perhaps a panel of Judges might take the place of the Secretary of State. Should the Council of State be retained in the Independence Constitution, there might be a provision that, if any of the safeguards for minorities in the Coastal Strip were infringed, there should be a right of appeal to the Council of State and it would be the duty of the County Council to take the initiative in such cases, should a Regional or County Council be established.

12. It does however seem to me, as an administrator, that the inception of a system such as I have sketched above, at so late a date in Kenya's progress towards self-government and independence is bound to lead to considerable administrative difficulty. At a time when the country is already beginning to face onerous new tasks concerned with the birth of a new State, to attempt a major administrative reform in the framework of local government must be an undertaking of considerable complexity. I am however led to believe that the tensions caused by tribal and racial anxieties are such as to make the effort well worth while. But in my opinion the change if it is to come should be introduced as soon as possible, so that it may be working reasonably efficiently, when independence comes.

### THE KENYA COASTAL STRIP

