

18298

1932

18298

KENYA

KO533/426

1

Service of Sir Ralph Cator

Pension

vious

sequent

3035/33.

R 297	6/6
Mr Christman	7/6
Mr Hunt	8
Mr Lloyd	10/6
Mr Marshall	10
309	11 3
Mr Dwyer	11/11
Mr 297	11/11
Mr Christman	14/11
Mr Hunt	14/11
Mr Lloyd	30/11
Mr Marshall	
R 297	
8291	

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Mr Hunt	8
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Mr Ormerod	10
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Mr 297	100%
The Priestman	14/1
Mr Hunt	14/1
Mr Lloyd	30%
Mr Ormerod	
R 297	

80291

State arrangements made in respect of a pension for Sir R. Cator in order that simultaneous arrangements may be made regarding the pension due for his service in E.A. Prot. (1896 - 1905)

Mr Hunter

Walter Gordon Kemp

Sir R. Cator was apparently
a Judge of the Supreme Court E.A.P.
from 1896 until 1st April 1905.
On the date of his transfer to the
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transfer from F.O. to this office of
the administration of the E.A. Protectorate.

Sir R. Cator has had no service
under the Colonial Office but Kenya
is presumably now responsible
for ^{that} portion of his pension in respect
of his service in E.A. Protectorate.

There are apparently no papers.
? Can you advise what should be
done.

H.R. P. M. S. M. A. I.
7/10/32

This letter is typical of the Chief Clerk
Dept. of the F.O.

Sir R. Cator's long pension could be
computed under the Annuity Order, but to do so
would involve getting aggregates, and we know
from experience how difficult it is to get this sort
of info. from the F.O.

As the Treasury are practically certain to
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suffer by having his Kenya pension computed under the Order Regulation. He probably started off with a 7 years by all.

Reply that it is assumed that when Sir R. Cator's offer for superannuation is submitted to the Treasury, the Commission will cause the necessary particulars of his E & P Service, which presumably are on record in the F.O., to be provided. And that when the pension has been determined and its incidence ascertained, the S.P. will be prepared to invite the Govt of Kenya to award its due contribution. J. Hunter Oct. 8, 1932.

This is certainly the simplest course open to the cheapest for Kenya. But if the Treasury do not apply Rule 2 and Sir R. Cator does not in consequence receive, from all sources, the maximum pension of $\frac{2}{3}$ of his final emolument, we should then have to compute a separate Kenya award under the existing law and, if that proved to be higher than an award on the basis proposed by Mr Hunter, Sir R. Cator should of course have it.

J. Lloyd

10.10.32

J. Hunter

10.10.32

2 To F.O. - 1 and. — 13-10-32

J. Hunter

5 Sir R. Hamilton S.O. — 23.10.32
asks that matter of Sir R. Cator's pension may, if necessary, be expedited.

J. Hunter

To Sir R. Hamilton, S.O. — 2.11.32

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S. J. 4

To Sir R. Hamilton S.O. — 2.11.32

3
NA
NA
4

C. O.

16298 Kenya.

Mr. Lloyd. 29.10.32.

Mr. Keeler 29.

Mr.

Mr. Parkinson.

Mr. Tomlinson.

Sir C. Bottomley. 31.10.32

Sir J. Shuckburgh.

Permd. U.S. of S.

Parly. U.S. of S.

Secretary of State.

For Sir C. Bottomley's signature.

C.O.
R 31 OCT
D 1 WJ

Downing Street,

2 November

October, 1932.

772

Dear Sir Robert,

DRAFT. *am*

SIR ROBERT HAMILTON, M.P.

I have looked into the question of the pension of Sir Ralph Cator about which you wrote to me on the 27th of October.

I find that, although the pension for which Sir Ralph Cator is eligible in respect of his service in the East Africa Protectorate will fall on Kenya funds, the particulars of service required for the computation of that pension are still in the possession of the Foreign Office. We therefore

3 ^{NA}/_{NA}
4

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7

therefore asked that Department on the 13th of October to let us know, when Sir Ralph Cator's pension in respect of the whole of his service had been determined, how its incidence had been apportioned.

As soon as we have this information we can authorise the Crown Agents for the Colonies to pay pension provisionally from Kenya funds in anticipation of the formal award by the Kenya Government.

While I cannot, of course, commit myself to any figures at this stage, it seems likely, on the information in our possession, that Sir Ralph Cator's total pensions will reach the maximum of two-thirds of his final emoluments.

As regards the Kabanyo gold fields (I doubt we have had nothing but a brief

5

3

27th October, 1932.

Sir C. Bottomley, K.C.M.G., C.B., O.B.E.,
Colonial Office, S.W.1.

Dear Bottomley,

I recently heard from my old Chief in the East Africa Protectorate in Foreign Office days, Sir R.B.P. Cator, who is now about to retire, that there is some delay in calculating his pension. I understand that the calculation for the period of his service in East Africa under the Foreign Office now falls to the Colonial Office, and as he is anxious to ascertain the amount of pension to which he is entitled as soon as possible, may I ask you to be kind enough to have the matter looked into, and, if necessary, expedite it.

Yours sincerely,

R. Hamilton

P.S. Are you going to have a Gold Rush in Kenya to add to your other anxieties in that part of the world? Great prominence has, I see, been given to Kitson's report.

Ans. 5.0 . 2 . 11 . 32

C. O.

Handwritten scribbles and the number 6 in the top right corner.

Mr. Priestman 11/10/32

Mr. *D. H. ...*

Mr. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Sir G. Grindle.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

Downing Street,

13 October, 1932.

Stamp: C.D. R 12 OCT D ✓ Sir,

I am etc. to acknowledge

the receipt of your letter No.

(1) K.10349/10349/216 of the 3rd

October, regarding the pension

of Sir Ralph Cator.

2. ~~I am to say that~~ Sir P.

Cunliffe-Lister assumes that

when Sir Ralph Cator's applica-

tion for superannuation is sub-

mitted to His Majesty's Treasury,

Sir John Simon will cause the

necessary

DRAFT. *Consa*

THE U. S. OF STATE,
FOREIGN OFFICE

js

C. O.

Mr. Priestman

11/10/32

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Mr. Tomlinson.

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Sir J. Shuckburgh.

Sir G. Grindle.

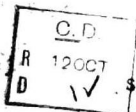
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FOREIGN OFFICE. *JS*

necessary particulars of his service in the East Africa Protectorate, which presumably are on record in the Foreign Office, to be furnished.

3. When the rate of pension has been determined, and its incidence ~~apportioned~~ ^{apportioned} ~~discussed~~, Sir P. Cunliffe-Lister will be prepared to invite the Government of Kenya to award their due contribution.

I am, etc.,

(Signed) H. T. ALLEN.

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I am, etc.,

(Signed) H. T. ALLEN.

In any further communication
of this subject, please quote

No. **K 10349/10349/216**

and address—

not to any person by name,

but to—

"The Under-Secretary of State,"
Foreign Office,
London, S.W.1.

7/
Eng

FOREIGN OFFICE.

S.W.1.

1000 112

3rd October, 1932.

Sir,

I am directed by Secretary Sir John Simon to state for the information of the Secretary of State for the Colonies that, on receipt of information from Cairo as to the date of retirement, application is being made to His Majesty's Treasury for a pension, in respect of his services as a Judge of His Britannic Majesty's Consular Courts in Turkey and Egypt, for Sir Ralph Cator, whose retirement from his present post as President of the Egyptian Mixed Courts is impending.

2. Sir John Simon desires to bring this matter to the attention of Sir P. Cunliffe Lister in order that arrangements may be made simultaneously in regard to the pension due to Sir R. Cator in respect of his service in the East Africa Protectorate prior to his appointment on April 1st, 1905, as Judge of the Supreme Court for the Ottoman Dominions.

I am,

Sir,

Your obedient Servant,

David 27/10/32

Judge
Submarine
E.A.P. 1896-1905
1895 5/60

D. L. Smith

The Under Secretary of State,
Colonial Office.

1 Copy of Report by Mr S.H. La Fontaine on Borstal and other Reformatory Institutions in England. (Arising from corres on 17206/31)

2

~~DESTROYED UNDER STATUTE~~
~~DES...~~

2 Copy of desp. to Gov. Kenya 746 3rd October, 1932 as sent on 3035 P. File.

3 Copy of letter to Mr La Fontaine 4th October, 1932 as sent on 3035 P. File.

4 Extract from Kenya Govt Gazette of 30th August, 1932 containing "A Bill relating to Children and Young Persons". - Juvenile Offenders Ordinance, 1932

5 "Crime Committee Report, May, 1932"
Received under cover of S.P.R. from Col. Secty, Kenya, dated 11th Sept. 1932 on 18300/32.

The former's comments are awaited on the Report at 1 vide 2.

3 His comments may also be directed on the draft Bill at 4 and in so far as the terms of the Report relate to the Juvenile Offenders Ordinance this can also be done - but it should be drawn up on a separate paper to be in view of the position regarding Township Byelaws etc.

H.K. Pinnis
18/11/32

No action is necessary till we hear from

Govt.

Put by

B. Pinnis

12/11/32

at once

6/ Copy of the Juvenile Offenders Ordinance 1932.
(original on 111014/33 Gen.)

Non-due allowance of Nob signified on 111014/33 23 June 33.

copy 11704/823/4

7. Govt. Notice No 162 of 1934.

A copy has been registered in
the General M.

Sub by
C. S. G. ...
7/10/34
at ...

43

GOVERNMENT NOTICE No. 162

THE JUVENILE OFFENDERS ORDINANCE, 1933.

NOTICE.

It is hereby notified that by a Resolution passed in the Legislative Council on the 13th day of February, 1934, Sections 18, 19 and 20 of the *Juvenile Offenders Ordinance, 1933*, will come into force throughout the Colony on the 1st day of March, 1934.

Nairobi,

23rd February, 1934.

L. A. WEAVING,
for Colonial Secretary.

43

GOVERNMENT NOTICE NO. 162

THE JUVENILE OFFENDERS ORDINANCE, 1933.

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Nairobi,
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L. A. WEAVING,
for Colonial Secretary.

No. XV.

46
1933



Colony and Protectorate of Kenya.

IN THE TWENTY-THIRD YEAR OF THE REIGN OF
HIS MAJESTY KING GEORGE V.
JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.,
Governor.

Assented to in His Majesty's
name this 15 day of May,
1933.

J. BYRNE

Governor.

**AN ORDINANCE RELATING TO CHILDREN
AND YOUNG PERSONS**

ORDINANCE No. XV of 1933

An Ordinance relating to Children and Young Persons.

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

1. This Ordinance may be cited as "the Juvenile Offenders Ordinance, 1933." Short title.

2. In this Ordinance, unless the context otherwise requires— Interpre-

"child" means a person under the age of fourteen years.

"young person" means a person who is fourteen years of age or upwards and under the age of sixteen years.

"guardian" in relation to a child or young person includes any person who, in the opinion of the court having cognizance of any case in relation to the child or young person or in which the child or young person is concerned, has for the time being the charge of or control over the child or young person.

"probation officer" means a person appointed under this Ordinance by the Governor or by the court to be a probation officer.

3. (1) A court when hearing charges against children or young persons shall, unless the child or young person is charged jointly with any other person not being a child or young person, sit either in a different building or room from that in which the ordinary sittings of the court are held, or on different days or at different times from those at which the ordinary sittings are held and a court so sitting is in this Ordinance referred to as a juvenile court. Juvenile courts.

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(2) Where in the course of any proceedings in a juvenile court it appears to the court that the person charged or to whom the proceedings relate is of the age of sixteen years or upwards, or where in the course of any proceedings in any court other than a juvenile court it appears that the person charged or to whom the proceedings relate is under the age of sixteen years, nothing in this section shall be construed as preventing the court if it thinks it undesirable to adjourn the case, from proceeding with the hearing and determination of the case.

(3) Provision shall be made for preventing persons apparently under the age of sixteen years whilst being conveyed to or from court, or whilst waiting before or after their attendance in court, from association with adults charged with or convicted of any offence other than an offence with which the person apparently under the age of sixteen years is jointly charged or convicted.

(4) In a juvenile court no person other than the members and officers of the court, and the parties to the case, their advocates, and other persons directly concerned in the case, shall, except by leave of the court, be allowed to attend.

Provided that bona fide representatives of a newspaper or news agency shall not be excluded, except by special order of the court:

Provided that no person shall publish the name, address, school, photograph, or anything likely to lead to the identification of the child or young person before the juvenile court, save with the permission of the court or in so far as required by the provisions of this Ordinance. Any person who acts in contravention of the provisions of this proviso shall be liable to a fine not exceeding fifty pounds.

4. Where a person apparently under the age of sixteen years is apprehended with or without warrant and cannot be brought forthwith before a court, the officer to whom such person is brought shall inquire into the case, and may in any case, and

- (a) unless the charge is one of homicide or other grave crime; or
- (b) unless it is necessary in the interest of such person to remove him from the association with any undesirable person; or

Bail of children and young persons arrested.

(c) unless the officer has reason to believe that the release of such person would defeat the ends of justice,

shall release such person on a recognizance, with or without sureties, for such amount as will, in the opinion of the officer, secure the attendance of such person upon the hearing of the charge, being entered into by him or by his parent or guardian, or other responsible person.

5. Where a person apparently under the age of sixteen years having been apprehended is not so released as aforesaid, the officer to whom such person is brought shall cause him to be detained in a place of detention provided under this Ordinance until he can be brought before a court, unless the officer certifies—

- (a) that it is impracticable to do so; or
- (b) that he is of so unruly or depraved a character that he cannot be safely so detained; or
- (c) that by reason of his state of health or of his mental or bodily condition it is inadvisable so to detain him;

and the certificate shall be produced to the court before which the person is brought.

6. It shall be the duty of the Commissioner of Police to make arrangements for preventing, so far as practicable, a child or young person while being detained, from associating with an adult, other than a relative, charged with an offence.

7. (1) A court on remanding or committing for trial a child or young person who is not released on bail, shall, instead of committing him to prison, commit him to custody in a place of detention provided under this Ordinance and named in the commitment, to be there detained for the period for which he is remanded or until he is thence delivered in due course of law:

Provided that in the case of a young person it shall not be obligatory on the court so to commit him if the court certifies that he is of so unruly a character that he cannot be safely so committed, or that he is of so depraved a character that he is not a fit person to be so detained.

Custody of children and young persons not discharged on bail after arrest.

Association with adults during detention in police stations.

Remand or committal to custody in place of detention.

(2) Where in the course of any proceedings in a juvenile court it appears to the court that the person charged or to whom the proceedings relate is of the age of sixteen years or upwards, or where in the course of any proceedings in any court other than a juvenile court it appears that the person charged or to whom the proceedings relate is under the age of sixteen years, nothing in this section shall be construed as preventing the court if it thinks it undesirable to adjourn the case, from proceeding with the hearing and determination of the case.

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Bail of children and young persons arrested

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Custody of children and young persons not discharged on bail after arrest

Association with adults, during detention in police stations

Remand or commitment to custody in place of detention

(2) A commitment under this section may be varied or, in the case of a young person who proves to be of so unruly a character that he cannot be safely detained in such custody or to be of so depraved a character that he is not a fit person to be so detained, revoked by any court acting in or for the place in or for which the court which made the order acted, and if it is revoked the young person may be committed to prison.

Procedure
in juvenile
court.

8. (a) Where a child or young person is brought before a juvenile court for any offence it shall be the duty of the court as soon as possible to explain to him in simple language the substance of the alleged offence.

(b) Where a child is brought before a juvenile court for any offence other than homicide the case shall be finally disposed of in such court, and it shall not be necessary to ask the parent whether he consents that the child shall be dealt with in the juvenile court.

(c) Where a young person is brought before a juvenile court for an offence triable by the Supreme Court other than homicide and the court becomes satisfied at any time during the hearing of the case that it is expedient to deal with it summarily, the court shall put to the young person the following or a similar question, telling him that he may consult his parent or guardian if present in court before replying—

“Do you wish to be tried by this court or by the Supreme Court?”

and the court shall explain to the young person and to his parent or guardian if present in court the meaning of being so tried and the place where the trial would be held.

(d) After explaining the substance of the alleged offence the court shall ask the child or the young person (except in cases where the young person does not wish to be tried in the juvenile court) whether he admits the offence.

(e) If the child or young person does not admit the offence the court shall then hear the evidence of the witnesses in support thereof. At the close of the evidence in chief of each such witness the magistrate shall ask the child or young person, or, if he see fit, the child's parent or guardian, whether he wishes to put any questions to the witness.

If the child or young person instead of asking questions wishes to make a statement he shall be allowed to do so. It shall be the duty of the court to put to the witnesses such

questions as appear to be necessary. The court may put to the child or young person such questions as may be necessary to explain anything in the statement of the child or young person.

(f) If it appears to the court that a prima facie case is made out, the evidence of any witnesses for the defence shall be heard, and the child or young person shall be allowed to give evidence or to make any statement.

(g) If the child or young person admits the offence or the court is satisfied that it is proved, he shall then be asked if he desires to say anything in extenuation or mitigation of the penalty or otherwise. Before deciding how to deal with him the court shall obtain such information as to his general conduct, home surroundings, school record, and medical history, as may enable it to deal with the case in the best interests of the child or young person, and may put to him any question arising out of such information. For the purpose of obtaining such information or for special medical examination or observation the court may from time to time remand the child or young person on bail or to a place of detention.

(h) If the child or young person admits the offence or the court is satisfied that it is proved, and the court decides that a remand is necessary for purposes of enquiry or observation, the court may cause an entry to be made in the court register that the charge is proved and that the child or young person has been remanded. The court before which a child or young person so remanded is brought may without further proof of the commission of the offence make any order in respect of the child or young person which could have been made by the court which so remanded the child or young person.

9. (1) The Governor may by notice in the Gazette appoint a fit and proper person or persons of either sex and either by name or as holding any public office for the time being to be a probation officer or officers for any area, and may from time to time appoint a deputy probation officer for such area to act in the absence or during the illness or incapacity of the probation officer, and may appoint an assistant probation officer to perform under the direction of the probation officer all or any of the duties of a probation officer in any portion of such area.

Probation
officers

(2) A commitment under this section may be varied or, in the case of a young person who proves to be of so unruly a character that he cannot be safely detained in such custody or to be of so depraved a character that he is not a fit person to be so detained, revoked by any court acting in or for the place in or for which the court which made the order acted, and if it is revoked the young person may be committed to prison.

Procedure
in juvenile
court.

8. (a) Where a child or young person is brought before a juvenile court for any offence it shall be the duty of the court as soon as possible to explain to him in simple language the substance of the alleged offence.

(b) Where a child is brought before a juvenile court for any offence other than homicide the case shall be finally disposed of in such court, and it shall not be necessary to ask the parent whether he consents that the child shall be dealt with in the juvenile court.

(c) Where a young person is brought before a juvenile court for an offence triable by the Supreme Court other than homicide and the court becomes satisfied at any time during the hearing of the case that it is expedient to deal with it summarily, the court shall put to the young person the following or a similar question, telling him that he may consult his parent or guardian if present in court before replying—

"Do you wish to be tried by this court or by the Supreme Court?"

and the court shall explain to the young person and to his parent or guardian if present in court the meaning of being so tried and the place where the trial would be held.

(d) After explaining the substance of the alleged offence the court shall ask the child or the young person (except in cases where the young person does not wish to be tried in the juvenile court) whether he admits the offence.

(e) If the child or young person does not admit the offence the court shall then hear the evidence of the witnesses in support thereof. At the close of the evidence in chief of each such witness the magistrate shall ask the child or young person, or, if he see fit, the child's parent or guardian, whether he wishes to put any questions to the witness.

If the child or young person instead of asking questions wishes to make a statement he shall be allowed to do so. It shall be the duty of the court to put to the witnesses such

questions as appear to be necessary. The court may put to the child or young person such questions as may be necessary to explain anything in the statement of the child or young person.

(f) If it appears to the court that a prima facie case is made out, the evidence of any witnesses for the defence shall be heard, and the child or young person shall be allowed to give evidence or to make any statement.

(g) If the child or young person admits the offence or the court is satisfied that it is proved, he shall then be asked if he desires to say anything in extenuation or mitigation of the penalty or otherwise. Before deciding how to deal with him the court shall obtain such information as to his general conduct, home surroundings, school record, and medical history, as may enable it to deal with the case in the best interests of the child or young person, and may put to him any question arising out of such information. For the purpose of obtaining such information or for special medical examination or observation the court may from time to time remand the child or young person on bail or to a place of detention.

(h) If the child or young person admits the offence or the court is satisfied that it is proved, and the court decides that a remand is necessary for purposes of enquiry or observation, the court may cause an entry to be made in the court register that the charge is proved and that the child or young person has been remanded. The court before which a child or young person so remanded is brought may without further proof of the commission of the offence make any order in respect of the child or young person which could have been made by the court which so remanded the child or young person.

9. (1) The Governor, may by notice in the Gazette Probation
officers
appoint a fit and proper person or persons of either sex and either by name or as holding any public office for the time being to be a probation officer or officers for any area, and may from time to time appoint a deputy probation officer for such area to act in the absence or during the illness or incapacity of the probation officer, and may appoint an assistant probation officer to perform under the direction of the probation officer all or any of the duties of a probation officer in any portion of such area.

A probation officer when acting under a probation order shall be subject to the control of the courts for the area for which he is appointed.

Probation
orders.

(2) Where a child or young person is charged with any offence other than homicide and the court is satisfied that the charge is proved, the court may make an order discharging the offender conditionally on his entering into a recognizance, with or without sureties, to be of good behaviour and to appear for sentence when called upon at any time during such period, not exceeding three years, as may be specified in the order. A recognizance entered into under this section shall, if the court so order, contain a condition that the offender be under the supervision of such person as may be named in the order during the period specified in the order and such other conditions for securing such supervision as may be specified in the order, and an order requiring the insertion of such conditions as aforesaid in the recognizance is in this Ordinance referred to as a probation order.

Who to be
named as
probation
officer.

- (3) The person named in any probation order shall be—
- a probation officer appointed by the Governor for the area in or for which the court acts, or
 - if the court considers it expedient on account of the place of residence of the offender, or for any other special reason, a probation officer appointed by the Governor for some other area, or
 - if the court considers that the special circumstances of the case render it desirable, or if no person has been appointed as a probation officer, a person who has not been appointed a probation officer for any area.
- (4) The person named in a probation order may at any time be relieved of his duties, and, in any such case or in case of the death of the person so named, another person may be substituted by the court before which the offender is bound by his recognizance to appear for conviction or sentence.
- (5) It shall be the duty of a probation officer, subject to the directions of the court—
- to visit or receive reports from the person under supervision at such reasonable intervals as may be specified in the probation order or, subject thereto, as the probation officer may think fit:

Duties of
probation
officers.

(b) to see that he observes the conditions of his recognizance;

(c) to report to the court as to his behaviour;

(d) to advise, assist, and befriend him, and, when necessary, to endeavour to find him suitable employment.

(6) The court before which any person is bound by his recognizance under this Ordinance to appear for conviction or sentence may, upon the application of the probation officer, and after notice to the offender, vary the conditions of the recognizance and may, on being satisfied that the conduct of that person has been such as to make it unnecessary that he should remain longer under supervision, discharge the recognizance.

Power to
vary
conditions
of release.

(7) (a) If the court before which an offender is bound by his recognizance to appear for conviction or sentence, or any court, is satisfied by information on oath that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension, or may, if it thinks fit, instead of issuing a warrant in the first instance, issue a summons to the offender and his sureties (if any) requiring him or them to attend at such court and at such time as may be specified in the summons.

Provision
in case of
offender
failing to
observe
conditions
of release.

(b) The offender, when apprehended, shall, if not brought forthwith before the court before which he is bound by his recognizance to appear for conviction or sentence, be brought before a court.

(c) The court before which an offender on apprehension is brought, or before which he appears in pursuance of such summons as aforesaid, may, if it is not the court before which he is bound by his recognizance to appear for conviction or sentence, remand him to custody or on bail until he can be brought before the last-mentioned court.

(d) A court, before which a person is bound by his recognizance to appear for conviction and sentence, on being satisfied that he has failed to observe any condition of his recognizance, may forthwith, without any further proof of guilt, deal with him as for the original offence.

(9) Where an order under this section is made by a court the order shall, for the purpose of re-vesting or restoring stolen property and of enabling the court to make orders as to the restitution or delivery of property to the owner and as to the payment of money upon or in connexion with such restitution or delivery, have the like effect as a conviction.

Attendance at court of parent of child or young person charged with an offence, &c.

10. Where a child or young person is charged with any offence, the court may in its discretion require the attendance of his parent or guardian and may make such orders as are necessary for the purpose.

Power to order parent to pay fine, &c. instead of child or young person

11. (1) Where a child or young person is charged before any court with any offence for the commission of which a fine, damages or costs may be imposed, and the court is of opinion that the case would be best met by the imposition of a fine, damages, or costs, whether with or without any other punishment, the court may in any case, and shall if the offender is a child, order that the fine, damages, or costs awarded be paid by the parent or guardian of the child or young person instead of by the child or young person, unless the court is satisfied that the parent or guardian cannot be found or that he has not conducted to the commission of the offence by neglecting to exercise due care of the child or young person.

(2) Where a child or young person is charged with any offence, the court may order his parent or guardian to give security for his good behaviour.

(3) Where a court thinks that a charge against a child or young person is proved, the court may make an order on the parent or guardian under this section for the payment of damages or costs or requiring him to give security for good behaviour, without proceeding to the conviction of the child or young person.

(4) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so, but, save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(5) Any sums imposed and ordered to be paid by a parent or guardian under this section, or on forfeiture of any such security as aforesaid, may be recovered from him by distress or imprisonment in like manner as if the order had been made on the conviction of the parent or guardian of the offence with which the child or young person was charged.

(6) A parent or guardian may appeal against an order under this section to the Supreme Court.

12. (1) No child shall be sentenced to imprisonment or to detention in a detention camp.

Restitutions on punishment of children and young persons

(2) No young person shall be sentenced to imprisonment if he can be suitably dealt with in any other way whether by probation, fine, corporal punishment, committal to a place of detention, reformatory or industrial school, or otherwise.

(3) A young person sentenced to imprisonment shall not be allowed to associate with adult prisoners

13. Notwithstanding anything in this Ordinance to the contrary, where a child or young person is convicted of an attempt to murder, or of manslaughter, or of wounding with intent to do grievous bodily harm, the court may sentence the offender to be detained for such period as may be specified in the sentence; and where such a sentence is passed the child or young person shall, during that period, notwithstanding anything in the other provisions of this Ordinance, be liable to be detained in such place and on such conditions as the Governor may direct, and whilst so detained shall be deemed to be in legal custody.

Detention in the case of certain crimes committed by children or young persons.

14. Where a child or young person is convicted of an offence punishable, in the case of an adult, with imprisonment, or would, if he were an adult, be liable to be imprisoned in default of payment of any fine, damage, or costs, and the court considers that none of the other methods in which the case may legally be dealt with is suitable, the court may order that he be committed to custody in a place of detention for a period not exceeding six months.

Committing child or young person to place of detention.

Children liable to be committed to care of relative, &c.

15. (1) Any authorized person may bring before a juvenile court any person apparently under the age of fourteen years who—

- (a) is found begging or receiving alms (whether or not there is any pretence of singing, playing, performing, offering anything for sale, or otherwise), or being in any street, premises, or place for the purpose of so begging or receiving alms; or
- (b) is found wandering and not having any home or settled place of abode, or visible means of subsistence, or is found wandering and having no parent or guardian, or a parent or guardian who does not exercise proper guardianship; or
- (c) is found destitute, not being an orphan and having both parents or his surviving parent, or in the case of an illegitimate child his mother, undergoing imprisonment; or
- (d) is under the care of a parent or guardian who, by reason of criminal or drunken habits, is unfit to have the care of the child; or
- (e) is the daughter, whether legitimate or illegitimate, of a father who has been convicted of an offence under section 148 of the Penal Code in respect of any of his daughters, whether legitimate or illegitimate; or
- (f) frequents the company of any reputed thief, or common or reputed prostitute; or
- (g) is being persistently ill-treated or neglected by his parent; or
- (h) is lodging or residing in a house or the part of a house used by any prostitute for the purpose of prostitution, or is otherwise living in circumstances calculated to cause, encourage, or favour the seduction or prostitution of the child.

and the court before which a person is brought as coming within one of those descriptions, if satisfied on enquiry of that fact may order the child to be taken out of the custody, charge, or care of any person, and to be committed to the care of a relative of the child or some other fit person or institution named by the court (such relative or other person or institution being willing to undertake such care), until the child attains the age of eighteen years, or for any shorter

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period, and may in addition to such order make an order that the child be placed under the supervision of a probation officer, and the court may of its own motion, or on the application of any person, from time to time, by order renew, vary, or revoke any such order:

Provided that the court may at any time on the application of the person or institution to whose care any female child is committed under this section, and with the consent of such child, extend the period for which she was so committed until she attains the age of twenty-one years:

Power to extend period of custody in case of female child.

Provided further that a child shall not be treated as coming within the description contained in paragraph (f) if the only common or reputed prostitute whose company the child frequents is the mother of the child, and she exercises proper guardianship and due care to protect the child from contamination.

(2) For the purposes of this section the Governor may by notice in the Gazette appoint any person or class of persons to be an authorized person.

(3) Every order made under this section shall be in writing, and any such order may be made by the court in the absence of the child; and the consent of any person or institution to undertake the care of the child in pursuance of any such order shall be proved in such manner as the court may think sufficient to bind that person or institution.

(4) (i) Any person or institution to whose care a child is committed under this section shall, whilst the order is in force, have the like control over him as the parent, and shall be responsible for his maintenance, and he shall continue in the care of such person or institution, notwithstanding that he is claimed by his parent or any other person, and if any person—

- (a) knowingly assists or induces, directly or indirectly, a person in respect of whom an order has been made under this section to escape from the person or institution to whose care he is so committed; or
- (b) knowingly harbours, conceals, or prevents from returning to such person or institution, a person in respect of whom an order has been made under this section who has so escaped, or knowingly assists in so doing;

he shall be liable to a fine not exceeding fifty pounds, or to imprisonment for a term not exceeding three months.

Children liable to be committed to care of relative, &c.

15. (1) Any authorized person may bring before a juvenile court any person apparently under the age of fourteen years who—

- (a) is found begging or receiving alms (whether or not there is any pretence of singing, playing, performing, offering anything for sale, or otherwise), or being in any street, premises, or place for the purpose of so begging or receiving alms; or
- (b) is found wandering and not having any home or settled place of abode, or visible means of subsistence, or is found wandering and having no parent or guardian, or a parent or guardian who does not exercise proper guardianship; or
- (c) is found destitute, not being an orphan and having both parents or his surviving parent, or in the case of an illegitimate child his mother, undergoing imprisonment; or
- (d) is under the care of a parent or guardian who, by reason of criminal or drunken habits, is unfit to have the care of the child; or
- (e) is the daughter, whether legitimate or illegitimate, of a father who has been convicted of an offence under section 148 of the Penal Code in respect of any of his daughters, whether legitimate or illegitimate; or
- (f) frequents the company of any reputed thief, or common or reputed prostitute; or
- (g) is being persistently ill-treated or neglected by his parent; or
- (h) is lodging or residing in a house or the part of a house used by any prostitute for the purpose of prostitution, or is otherwise living in circumstances calculated to cause, encourage, or favour the seduction or prostitution of the child.

and the court before which a person is brought as coming within one of those descriptions, if satisfied on enquiry of that fact may order the child to be taken out of the custody, charge, or care of any person, and to be committed to the care of a relative of the child or some other fit person or institution named by the court (such relative or other person or institution being willing to undertake such care), until the child attains the age of eighteen years, or for any shorter

No. 10 of 1930

period, and may in addition to such order make an order that the child be placed under the supervision of a probation officer, and the court may of its own motion, or on the application of any person, from time to time, by order renew, vary, or revoke any such order:

Provided that the court may at any time on the application of the person or institution to whose care any female child is committed under this section, and with the consent of such child, extend the period for which she was so committed until she attains the age of twenty-one years:

Power to extend period of custody in case of female child.

Provided further that a child shall not be treated as coming within the description contained in paragraph (f) if the only common or reputed prostitute whose company the child frequents is the mother of the child, and she exercises proper guardianship and due care to protect the child from contamination.

(2) For the purposes of this section the Governor may by notice in the Gazette appoint any person or class of persons to be an authorized person.

(3) Every order made under this section shall be in writing, and any such order may be made by the court in the absence of the child; and the consent of any person or institution to undertake the care of the child in pursuance of any such order shall be proved in such manner as the court may think sufficient to bind that person or institution.

(4) (i) Any person or institution to whose care a child is committed under this section shall, whilst the order is in force, have the like control over him as the parent, and shall be responsible for his maintenance, and he shall continue in the care of such person or institution, notwithstanding that he is claimed by his parent or any other person, and if any person—

(a) knowingly assists or induces, directly or indirectly, a person in respect of whom an order has been made under this section to escape from the person or institution to whose care he is so committed; or

(b) knowingly harbours, conceals, or prevents from returning to such person or institution, a person in respect of whom an order has been made under this section who has so escaped, or knowingly assists in so doing;

he shall be liable to a fine not exceeding fifty pounds, or to imprisonment for a term not exceeding three months.

(ii) Any court having power so to commit a child shall have power to make orders on the parent or other person liable to maintain the child to contribute to his maintenance during such period as aforesaid such sums as the court shall think fit, and may from time to time vary such orders.

(iii) Any such order may be made on the complaint or application of the person or institution to whose care the child is for the time being committed, and either at the time when the order for the committal of the child to his care is made, or subsequently, and the same contributed by the parent or such other person shall be paid to such person or institution as the court may name, and be applied for the maintenance of the child.

(iv) Where any parent or other person has been ordered under this section to contribute to the maintenance of a child, he shall give notice of any change of address to the Commissioner of Police, and if he fails to do so without reasonable excuse, he shall be liable to a fine not exceeding twenty pounds.

(5) The Governor may at any time in his discretion discharge a child or young person from the care of any person or institution to whose care he is committed in pursuance of this section, either absolutely or on such conditions as the Governor approves, and may, if he thinks fit, make rules in relation to children so committed to the care of any person or institution, and to the duties of and remuneration of such persons or institutions with respect to such children.

Emigration.

16. The Governor, in any case where it appears to him to be for the benefit of a child or young person who has been committed to the care of any person or institution in pursuance of section 15, may empower such person to procure the emigration of the child or young person, but, except with such authority, no person to whose care a child is so committed shall procure or allow his emigration.

Methods of dealing with children and young persons charged with offences

17. (1) Where a child or young person charged with any offence is tried by any court, and the court is satisfied of his guilt, the court shall take into consideration the manner in which, under the provisions of this or any other Ordinance or otherwise enabling the court to deal with the case, the case should be dealt with, namely, whether—

- (a) by dismissing the charge; or
- (b) by discharging the offender on his entering into a recognizance; or

- (c) by so discharging the offender and placing him under the supervision of a probation officer; or
- (d) by committing the offender to the care of a relative or other fit person; or
- (e) by sending the offender to an industrial school; or
- (f) by sending the offender to a reformatory school; or
- (g) by ordering the offender to be whipped; or
- (h) by ordering the offender to pay a fine, damages, or costs; or
- (i) by ordering the parent or guardian of the offender to pay a fine, damages, or costs; or
- (j) by ordering the parent or guardian of the offender to give security for his good behaviour; or
- (k) by committing the offender to custody in a place of detention provided under this Ordinance; or
- (l) where the offender is a young person, by sentencing him to imprisonment; or
- (m) by dealing with the case in any other manner in which it may be legally dealt with.

(2) Nothing in this section shall be construed as authorizing the court to deal with any case in any manner in which it could not deal with the case apart from this section.

Provided that whenever a child or young person is convicted of an offence for which, but for the provisions of this Ordinance a sentence of imprisonment would have been passed, the court by which such child or young person is convicted may, instead of passing such sentence of imprisonment, direct that he be sent to an industrial school or reformatory school for a period which shall not be less than three or more than seven years.

18. (1) It shall be the duty of the Commissioner of Police to provide such places of detention for each district as may be required for the purposes of this Ordinance, but nothing shall prevent the same place of detention being provided for two or more districts.

Provision of places of detention.

(2) If more than one place of detention is provided for in any district the Commissioner of Police may determine that any such place shall be used for some only of the purposes for which places of detention are required to be provided and another place for the other purposes.

(3) It shall be lawful for the authority or persons responsible for the management of any institution other than a prison whether supported out of public funds or by voluntary contributions, but subject in the case of an institution supported out of public funds to the consent of the Governor, to agree with the Commissioner of Police for the use of the institution or any part thereof as a place of detention on such terms as may be agreed upon between them and the Commissioner of Police.

(4) In selecting the place of detention to which a child or young person is to be committed the court or officer of police shall have regard, where practicable, to the religious persuasion of the child or young person.

Provisions
as to
custody of
children
and young
persons in
places of
detention.

19. (1) The order or judgment in pursuance of which a child or young person is committed to custody in a place of detention provided under this Ordinance shall be delivered with the child or young person to the person in charge of the place of detention and shall be a sufficient authority for his detention in that place in accordance with the tenor thereof.

(2) A child or young person whilst so detained and whilst being conveyed to and from the place of detention shall be deemed to be in legal custody and if he escapes may be apprehended without warrant and brought back to the place of detention in which he was detained.

(3) The Governor shall cause places of detention provided under this Ordinance to be inspected, and may make rules as to the places to be used as places of detention, and as to their inspection, and as to the classification, treatment, employment, and control of children and young persons detained in custody in a place of detention provided under this Ordinance, and for the children and young persons whilst so detained being visited from time to time by persons appointed in accordance with those rules.

Power to
discharge
child or young
person.

20. The Governor may at any time order any child or young person:—

(a) To be discharged from an industrial school or a reformatory school.

(b) To be removed from one industrial school or reformatory school to another or from an industrial school to a reformatory school or from a reformatory school to an industrial school: Provided that the whole period of his detention shall not be increased by such removal.

(c) To be released from an industrial school or reformatory school on condition that such child or young person shall live under the charge of any trustworthy and respectable person named in the order of release willing to receive and take charge of him and to keep such child or young person employed at some trade, occupation or calling.

21. The expenses incurred by the Commissioner of Police in respect of any place of detention provided by the authority, including the expenses of the maintenance of any child or young person detained therein, whether detained on apprehension or committed to custody on remand or commitment for trial or in lieu of imprisonment or in default of payment of a fine, damages, or costs, shall be defrayed out of moneys voted for the purpose by the Legislative Council.

Expenses of
maintenance
of child or
young person

22. Where a person, whether charged with an offence or not, is brought before any court otherwise than for the purpose of giving evidence, and it appears to the court that he is a child or young person, the court shall make due enquiry as to the age of that person, and for that purpose shall take such evidence as may be forthcoming at the hearing of the case, but an order or judgment of the court shall not be invalidated by any subsequent proof that the age of that person has not been correctly stated to the court, and the age presumed or declared by the court to be the age of the person so brought before it shall, for the purposes of this Ordinance, be deemed to be the true age of that person, and, where it appears to the court that the person so brought before it is of the age of sixteen years or upwards, that person shall for the purposes of this Ordinance be deemed not to be a child or young person.

Presumption
and determina-
tion of age

23. The Governor in Council may make rules for carrying this Ordinance into effect, and in particular for prescribing such matters incidental to the appointment, resignation, and removal of probation officers, and the performance of their

Power to
make rules

duties, the reports to be made by them, and the payment of their remuneration or out-of-pocket expenses, as may appear to be necessary.

Saving.

24. Save in so far as other provision is expressly made in this Ordinance, nothing in this Ordinance shall be deemed to affect any other law relating to children or young persons.

Suspended operation of certain sections of the Ordinance.

25. (1) The provisions of sections 18, 19 and 20 of this Ordinance shall not come into force until the Legislative Council by resolution has declared that the provisions of the said sections shall as from a date to be specified in the said resolution be in force either in the whole Colony or in any area or areas in the Colony.

(2) Until the issue of such proclamation as aforesaid the provisions of sections 5, 6, 7, 8, 12, 14 and 17 of this Ordinance shall be read as if reference therein to a place of detention provided under this Ordinance, detention, a place of detention, an industrial school or a reformatory school, as the case may be, were reference to a detention camp established under the Detention Camps Ordinance, 1925, and the provisions of the proviso to sub-section (2) of section 17 shall not come into operation until industrial schools or reformatory schools have been established under this Ordinance.

No. 25 of 1926.

Passed in the Legislative Council the eleventh day of April, in the year of Our Lord one thousand nine hundred and thirty-three.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council and is presented for authentication and assent as a true and correct copy of the said Bill.

H. E. BADER

Acting Clerk of the Legislative Council.

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Kenya Colony and Protectorate



CRIME COMMITTEE REPORT

May, 1932

Price 2/6

NAIROBI
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1932

CRIME COMMITTEE REPORT**May, 1932**

CRIME COMMITTEE REPORT
May, 1932

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CHAPTER I

INTRODUCTORY.

YOUR EXCELLENCY,

We, the Committee appointed to inquire into and report upon the prevalence of crime in Nairobi and its neighbourhood, have the honour to submit the following Report.

2. We have met on ten occasions, and have had the advantage of hearing evidence from the following witnesses:

- The Officer in charge, C.I.D., Nairobi.
- The Labour Officer, Nairobi.
- The Superintendent of Native Locations, Nairobi.
- The Superintendent of Kibete Reformatory.
- The Acting Deputy Commissioner of Prisons.
- The Officer in charge, Criminal Records, C.I.D.
- Mr. J. Jones, a prominent African resident of the Native Location.

3. Our terms of reference were as follows:—

"To make recommendations for dealing with the problems arising from the presence of large numbers of potential juvenile offenders, habitual criminals, vagrants and unemployed in Nairobi and the areas bordering on Nairobi."

4. The figures of cognizable crime under I.P.C.—reported to the Nairobi Police during the period 1922–1931—are as follows:—

YEAR	1 House- breaking and Burglary	2 Other Offences against Property	3 Total Offences against Property Total of Cols. 1 and 2)	4 Offences against Persons	5 Other Offences under the I.P.C.	6 Total Cogniz- able Offences under the I.P.C.
1922	225	693	918	57	69	1,044
1923	193	632	830	75	62	967
1924	193	651	844	76	70	990
1925	261	675	1,136	72	51	1,269
1926	170	729	899	107	105	1,111
1927	77	609	686	65	60	811
1928	68	496	564	68	30	662
1929	69	542	611	74	33	718
1930	52	418	470	92	71	633
1931	122	588	710	130	107	947

- A Other Offences against Property (Col. 2) includes: Theft, Robbery, Arson, and Offences allied to stealing.
- B Offences against Persons (Col. 4) includes:— Murder, Manslaughter, Attempts, etc., Rape, Abduction, Procuracion, Unnatural Offences, Assaults on Persons, etc.
- C Other Offences under the I.P.C. and P.C. (Col. 5) includes Escape from Custody and all other Cognizable Offences.

5. Owing to the variety of factors by which statistics of crime may be affected it is difficult to draw from these figures any very definite conclusions as to the increase or decrease of crime in Nairobi. Among these factors are the temporary or permanent increase of the population concerned, the strength of the police force entrusted with the duty of controlling that population, the methods employed by the police for both prevention and detection of crime, the application of township laws, and, above all, the economic conditions of the time.

6. From the above figures, it would seem a warrantable inference that a wave of crime accompanies a period of acute economic depression. 1922 was a year of acute depression, as was also 1931. The figures of crime in Nairobi for both these years are correspondingly high. Since 1925 they decreased until 1930, which showed lower figures than any other year in the decade.

7. The theory at first sight seems to break down over the year 1925, which was exceedingly prosperous for the Colony, but nevertheless had a phenomenally bad record of crime in Nairobi. It seems probable therefore that the situation was affected by some factors which were not present in the years immediately preceding. In this connexion, the following extracts from the Annual Reports of the Commissioner of Police for the years 1925 and 1926 are of interest:—

The congregation in the larger townships of unemployed natives, many of whom may be regarded as derelictized, is accountable for the large proportion of offences against property which continue to be prevalent and to increase in urban areas.

This type of native is outside tribal control, does not and will not work, and is the constant associate of prostitutes and of characters as bad or worse than his own. He is insolent and contemptuous of authority, and, in fact, is the native counterpart of the 'hooligan,' that objectionable feature of the larger towns of England.

By the application of the Vagrancy Ordinance, Native Pass Regulations, and in some townships of a special law prohibiting an unemployed native to reside for more than forty-eight hours in the town, the police have endeavoured to cope with undesirable of this nature. (Commissioner of Police's Report for 1925.)

This (sc. reduction in housebreaking) has undoubtedly been effected by a complete *voile-face* as regards police methods, and the assumption of the maxim that one case prevented is worth ten cases detected, however brilliant the detective work in the latter may have been. (Commissioner of Police's Report for 1926.)

Offences under local Ordinances illustrate an increase of 64 per cent convictions being obtained in 91 per cent of cases.

This is a very marked increase, and is indicative of increased police zeal, vigilance and activity. The higher the figure rises in this category of special laws which are preventive, so automatically will the pointer of the graph for grave crime drop. (Commissioner of Police's Report for 1926.)

8. It may be therefore that the increase in crime in 1925 (accounted for entirely by an increase in crime against property) was due largely to increased police zeal and vigilance and activity. This would have the natural effect of immediately apprehending an increased number of offenders and of subsequently reducing the number of crimes committed.

9. It is also worthy of note that the estimated native population of Nairobi increased from 12,560 in 1923 to 18,000 in 1925, and that to deal with this increase and to prevent still further inflation, Municipal by-laws were introduced in Nairobi in 1925, designed to control the numbers of unemployed natives and to prevent loitering and sleeping by night on unauthorized premises. Further reference to these by-laws will be found in Chapter IV of this Report. In the Chief Native Commissioner's Report for 1926 it is stated:—

These by-laws have already considerably reduced housebreaking and other forms of crime to which criminal natives who frequent towns are addicted.

We may therefore perhaps be justified in assuming, first that the apparent increase in crime in 1925 was to some extent a fictitious increase, being in fact not an increase in crime so much as an increase in the number of crimes recorded by the Police, and secondly that such increase as there was was due to exceptional circumstances such as the rapid growth of the population of the town, and we may further assume that the special measures taken to deal with the situation resulted in a reduction of crime to its normal proportions during the ensuing years.

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"This type of native is outside tribal control, does not and will not work, and is the constant associate of prostitutes and of characters as bad or worse than his own. He is insolent and contemptuous of authority, and, in fact, is the native counterpart of the 'hooligan,' that objectionable feature of the larger towns of England.

"By the application of the Vagrancy Ordinance, Native Pass Regulations, and in some townships of a special law prohibiting an unemployed native to reside for more than forty-eight hours in the town, the police have endeavoured to cope with undesirable of this nature." (Commissioner of Police's Report for 1925.)

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10. If these assumptions are reasonable, then the theory that the incidence of crime has varied in accordance with economic fluctuations is not necessarily discounted by the abnormal figures of 1925, and the alarming increase of crime in 1931 is probably due to nothing more than the "economic hazard," and does not necessarily mean that the population is more evilly disposed or that methods of control have proved less efficient than in former years. With the return of normal prosperity we may expect a return to more normal figures of crime. The recent increase, however, is sufficiently grave to merit serious attention, and warrants something more than a mere dismissal of the subject as being symptomatic of economic conditions and nothing more, if only for the reason that it appears safe to foreshadow that conditions of general prosperity throughout the country must wax and wane in the future as they have done in the past, and that each recurrence of a local depression will be liable, as the country develops, to aggravate the conditions recorded for 1931 unless suitable measures are instituted.

11. We have dealt in this report with the subject under the three heads indicated in our terms of reference, viz: (a) Juveniles, (b) Habitual Criminals, and (c) Vagrants and Unemployed.

12. We realize that many of our recommendations would involve the expenditure of public money which the Colony cannot at present afford and is unlikely to be able to afford in the near future. It is therefore clear that immediate effect cannot be given to these recommendations. We submit, however, that even from the economic point of view alone money spent on the prevention of crime is money well spent, and that this is particularly true of money spent on the protection of the juvenile mind from corruption and from all such influences as tend to initiate children into a life of crime. The manufacture of criminals involves the State eventually in greater expenditure than does the proper application of preventive and remedial measures to potential criminals in infancy.

13. It must therefore be recognized that many of our recommendations are submitted rather as indications of the policy that we believe should be followed as circumstances permit than in the hope or expectation that they can be adopted forthwith.

CHAPTER II.

JUVENILES.

14. In dealing with the first portion of the terms of reference—potential juvenile offenders—we have found that the general situation is that there are 3,446 juveniles resident in Nairobi, of whom probably more than a third are under no form of guardianship or parental control. Many of them have left their parents in the Reserve and have come to Nairobi to look for employment. Some of them are children of irregular and temporary unions; others are children of prostitutes and unknown fathers. In many cases these obtain intermittent employment with Indians, Somalis and others, for no regular or stated wage but for food and an occasional present. As a result of a test round-up made by the Superintendent of Police, 47 unemployed native juveniles were brought into the Police Station in two and a half hours.

According to the Superintendent of the Native Locations, a large number of the 838 juveniles resident in the locations spend their time wandering about Nairobi looking for work. A considerable number of them have no relatives in the locations, and at night are compelled to search for somewhere to sleep.

16. In view of these circumstances the Committee proceeded to examine such social conditions of juvenile life in Nairobi as might be calculated to create or to foster criminal tendencies among children and adolescents. The results of this examination are set out in the following paragraphs.

GENERAL.

17. A factor which has no little influence on conditions of child life in Nairobi is the composite nature of the population of the town. This population is comprised roughly as follows:

Europeans	5,177
Goans	1,817
Indians	13,582
Arabs and others	590
Africans	26,761

18. The European population is mainly professional and commercial, is on the whole prosperous, and presents at present no poor white problem.

Among the Indians are many of standing and repute. The majority, however, are artisans and petty traders. It is no criticism of the Indian community as a whole to recognize that among this section there are many whose standard of living and whose manner of life are such that they cannot be considered entirely satisfactory as employers of native labour, and are forced themselves to live in conditions which are not beyond criticism as examples to their African neighbours.

The Goans are for the most part engaged in commerce or in clerical occupations, and present no serious problem.

The Arabs are mainly engaged in trade, and no special difficulties are encountered in regard to them.

19 The Africans consist mainly of Kikuyu, but there are also many Kavirondo and Akamba, and lesser numbers of other up-country tribes. There are also Swahili from the Coast and a growing community of Somalis from the north.

This heterogeneous and shifting population of Africans provides problems of complexity and difficulty not unknown in other parts of Africa.

In the first place its composition makes it impossible to establish control by any tribal organization such as that to which its members are accustomed in native reserves.

Secondly, the conditions of juvenile employment are varied and unstable. It is not to the ultimate good of the child that he can manage to exist in the streets by picking up a precarious livelihood in return for performing casual or intermittent services to a master, or perhaps a number of masters who cannot afford to pay him an adequate or regular wage.

20 Conditions of housing are in many respects unsatisfactory, but it should be remembered that there exists in Nairobi no such slum problem as has arisen elsewhere in older and more populous towns and cities owing to the congestion in small areas of large sections of the industrial population.

If conditions in which children in Nairobi are housed are in many cases deplorable it is important to bear in mind that they are not very different from those still largely obtaining in the reserves, where the home is a mud hut shared with sheep and goats and fowls.

THE NUMBER OF JUVENILES IN NAIROBI.

21. The 3,446 juveniles resident in Nairobi according to the last census are comprised as follows:—

NATIVE JUVENILE POPULATION OF NAIROBI EXCLUSIVE OF NATIVE LOCATION IN DETAIL

Age in Years	Christian		Moham- medan		Pagan		Not Stated		Total	
	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.
Under										
1	20	27	7	8	6	18	5	2	47	55
1	39	51	16	16	18	16	6	9	79	92
2	52	46	11	20	16	10	10	7	89	83
3	50	31	20	18	13	5	5	7	88	61
4	22	22	17	14	10	2	7	0	56	38
5	29	16	14	14	6	3	11	4	60	37
6	20	11	14	10	13	3	5	1	52	25
7	19	8	15	10	19	1	4	3	57	22
8	43	6	20	4	40	3	8	6	111	19
9	17	11	14	9	28	4	7	0	66	24
10	42	4	18	10	11	4	41	2	212	20
11	12	2	4	4	28	1	12	0	56	7
12	67	5	13	7	147	2	49	2	276	16
13	34	3	6	4	65	1	24	1	129	9
14	69	5	10	5	164	0	54	1	297	11
15	84	16	22	7	198	6	79	2	383	31
TOTAL	628	264	221	160	382	79	327	47	2,058	550

NATIVE LOCATION JUVENILE POPULATION IN DETAIL

Age in Years	Christian		Moham- medan		Pagan		Not Stated		Total	
	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.
Under										
1	3	3	7	8	1	3	3	7	14	21
1	2	5	17	10	4	4	4	6	23	25
2	10	2	22	16	2	3	8	10	42	29
3	5	4	15	13	1	1	6	6	27	24
4			7	13	3	1	6	4	16	18
5	2	4	10	18	1	1	6	5	19	28
6	3	4	13	12	3	1	3	6	22	18
7			1	14	11	2	2	6	4	22
8	4	2	18	12	5	3	7	3	34	20
9	1	2	9	7	6	1	3	1	19	11
10	6	2	20	12	16	2	7	6	49	22
11	4	1	6	1	6	1	6	1	22	4
12	6	1	14	9	22	4	9	3	51	17
13	5	6	7	6	7	2	11	2	30	16
14	4	4	9	3	20	7	20	2	33	16
15	7	1	18	13	26	3	31	4	62	21
TOTAL	62	40	206	164	121	39	136	70	525	313

THE TRIBES TO WHICH THEY BELONG.
22. Tribal analysis of natives under sixteen years of age:

TRIBE	Males	Females	Total
Not Stated	12	3	15
Luo	322	144	466
Bantu Kavirondo	210	111	321
Kitii	21	3	24
Nandi	19	22	41
Lumbwa	16	5	21
Kikuyu	1,157	221	1,378
Mert and Atharaka	33	13	46
Embu, Chuka and Mwimbi	23	5	28
Akamba	185	44	229
Masai	11	8	19
Wa Teita and Wa Taveta	3	5	8
Wa Digo and Wa Duruma	2	4	6
Wa Giriama	1	1	2
Wa Sughili and Bajun	45	37	82
Marakwet	1	1	2
Elgeyb	1	1	2
Turkana	2	1	3
Kamasia	1	1	2
Suk	1	1	2
Tanganyika Tribes	61	31	92
Uganda Tribes	62	31	93
Northern Rhodesian Tribes	1	1	2
Nyasaland Tribes	5	3	8
Congo Belge Tribes	2	2	4
Sudan and Nubians	10	21	31
Somali	133	103	236
Africans not Classified	230	41	271
Abyssinians	3	1	4
Comorians	1	3	4
Union of South Africa Tribes	1	1	2
Northern Frontier	2	1	3
TOTAL	2,583	863	3,446

THE NUMBER PERMANENTLY EMPLOYED.

23. The following were found to be in regular employment other than domestic service:—

1. Employed by General Public within the Municipality	284
2. By Government	28
3. By Municipality	106
3. By Railway	54
Total	472

Those employed by the Municipality receive from Sh. 8 to Sh. 10 per month and 14 lb. of maize meal with 3½ ounces

of salt weekly. The Railway pay their juveniles from Sh. 6 to Sh. 10 per month and rations.

The figures of those registered as domestic servants are as follows:—

In employment	468
Not employed	596
Not stated	63
Total	1,127

In Nairobi rural district the total number returned as employed by the general public is 1,689 and among this number may be included some of those who reside within the Municipality.

Some 35 per cent of the male juveniles would therefore appear to be in regular employment.

THE NUMBER IN INTERMITTENT EMPLOYMENT.

24. Of the remainder some are employed as pot boys in the native eating houses, some by African clerks, some by Asiatic hawkers as barrow boys in the town. Among these some may be considered to be in regular employment. But while it is impossible to obtain accurate returns of those employed intermittently it may be assumed that 10 per cent of those not in regular employment earn a little money by casual work.

THE HOUSING CONDITIONS OF JUVENILES IN NAIROBI.

25. These are admitted to be in many respects deplorable. Leaving aside those children who live with their parents inside or outside the native locations there are a number who have no homes, but sleep under houses, or in outhouses, yards, and even latrines and change their sleeping place every few nights.

The juveniles employed by the Railway are well housed, three or four in a room with an adult. They have the use of spray bathrooms and provision is made for the washing of clothing. Those employed by the Municipality are housed eight in a dormitory in the Quarry Road housing.

In addition to these a number of juveniles employed as kitchen boys, etc. are accommodated in proper quarters built for house boys.

THE HEALTH OF JUVENILES IN NAIROBI.

26. Dr. Shaw, Medical Officer in charge child welfare reports as follows:—

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Wa Sgubhi and Bajun	45	37	82
Marakwet	1	..	1
Elgeyo	1	..	1
Turkana	2	..	2
Kamasia	1	1	2
Suk	1	..	1
Tanganyika Tribes	61	31	92
Uganda Tribes	62	31	93
Northern Rhodesian Tribes	..	1	1
Nyasaland Tribes	5	3	8
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25. These are admitted to be in many respects deplorable. Leaving aside those children who live with their parents inside or outside the native locations there are a number who have no homes, but sleep under houses, or in outhouses, yards, and even latrines and change their sleeping place every few nights.

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In addition to these a number of juveniles employed as kitchen boys, etc. are accommodated in proper quarters built for house boys.

THE HEALTH OF JUVENILES IN NAIROBI.

26. Dr. Shaw, Medical Officer in charge child welfare reports as follows—

At the outset it must be realized that any figures relating to the incidence of disease among the juvenile population of Nairobi can only be approximate. In the absence of compulsory registration of births, accurate vital statistics are impossible; registration of deaths is theoretically compulsory but in my opinion is often evaded.

The infant mortality rate, i.e. the number of infant deaths under one year of age per 1,000 live births, is usually regarded as a fair indication of the general health of the whole population. The rate in England for 1930 was sixty—the rate in Nairobi is probably about 150-160.

The chief causes of infant mortality here are:—

Pneumonia, accounting for about 40 per cent of deaths.

Prematurity, accounting for about 10 per cent of deaths.

Congenital debility, accounting for about 10 per cent of deaths.

Diarrhoea and enteritis, accounting for about 8 per cent of deaths.

Apart from the deaths caused by these conditions, the number of children whose future health and efficiency are permanently impaired must be considerable. Add to these the number of children who, from the age of one year upwards, suffer from faulty diet and who are exposed to the increased risk of infection, particularly from intestinal parasites and acute infections—e.g., malaria, and one is forced to the conclusion that the standard of health of the urban-native population is decidedly low.

Juvenile native population 1931:—

Males	2,563
Females	883
Total	3,446

Children under sixteen admitted to the Infectious Diseases Hospital from Nairobi during 1931 numbered only 46 or 1.33 per cent.

The figure is low considering the fact that during the year a mild epidemic of measles and whooping cough occurred and although figures from the Native Civil

Hospital and not yet available, they will probably not be much higher.

On the other hand the attendances of children at the three dispensaries (i.e. Pumwani, Pangani and the K U R. Landies) during the year reached a total of 15,818. A number of these are, of course, repeat attendances—e.g. daily dressings, daily treatment of acute eye and ear diseases and the daily attendance of children for medicine whose mothers cannot be relied upon to administer it correctly or regularly at home.

Such figures again show that though the death rate is probably not so high as might be anticipated the standard of health is so low as to be an important factor in producing an urban population ill adapted to meet the strain of regular employment and one, in consequence, which drifts easily into delinquency.

The following table is taken from the report of the Medical Officer in charge School Medical Inspection for 1929. (The figures for Africans in Nairobi, 1930, are not recorded in detail.) This table shows the chief defects found in the cases examined. It must be remembered that these cases from a scientific point of view are 'selected cases' in that they represent native children whose parents have demonstrated practically an interest in their children at least sufficient to send them to school. In the case of the floating juvenile population, so harassing to all with any knowledge of them, one may fairly assume that the standard of health is even lower.

AN EXAMINATION OF AFRICAN CHILDREN ATTENDING SCHOOLS IN NAIROBI (1929)

DEFECT	Number Examined	Percentage
Teeth	360	9.1
Gums (Spongy and Bleeding) This condition is indicative of deficiencies in diet)		14.4
Tonsils		9.0
Respiratory System		20.3
Alimentary System		1.1
Enlarged Spleen		16.4
Circulatory System		19.7
Nervous (Gross Disorders)		4.1
Skin Diseases		10.8
Surgical Conditions		0.3
Ear Diseases		3.0
Eye—External Diseases		2.9
Defects of Vision	219	0.3
Nephritis	360	0.3
Intestinal Worms	126	65.3

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Prematurity, accounting for about 10 per cent of deaths.

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Apart from the deaths caused by these conditions, the number of children whose future health and efficiency are permanently impaired must be considerable. Add to these the number of children who, from the age of one year upwards, suffer from faulty diet and who are exposed to the increased risk of infection, particularly from intestinal parasites and acute infections—e.g., malaria, and one is forced to the conclusion that the standard of health of the urban-native population is decidedly low.

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Such figures again show that though the death rate is probably not so high as might be anticipated the standard of health is so low as to be an important factor in producing an urban population ill adapted to meet the strain of regular employment and one, in consequence, which drifts easily into delinquency.

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AN EXAMINATION OF AFRICAN CHILDREN ATTENDING SCHOOLS IN NAIROBI 1929

DEFECT	Number Examined	Percent age
Teeth	96	9.1
Gums (Spongy and Bleeding). This condition is indicative of deficiencies in diet)		4.4
Tonsils		2.3
Respiratory System		1.1
Alimentary System		12.4
Enlarged Spleen		19.7
Circulatory System		3.0
Nervous (Gross Disorders)		0.8
Skin Diseases		1.8
Surgical Conditions		0.7
Ear Diseases		0.5
Eye—External Diseases		2.9
Defects of Vision	219	2.9
Nephritis	360	0.3
Intestinal Worms	126	65.3

In addition over a series of cases examined the average per centage of haemoglobin was only 77.3 indicating the generally finding of some degree of anemia.

It is difficult to find a comparison with the routine examination of school children in England, for example, bleeding and inflamed gums indicative of deficiencies in diet are rare at home; spleen enlargement due to repeated attacks of malaria is practically non-existent; worms are found exceptionally, while nervous diseases, both functional and organic, are more frequent in a civilized community, as are defects of vision and, particularly in Great Britain, disabling rheumatic affections of the heart; but the following table, giving results of examination of elementary school children at home, may afford some comparison.

DEFECT	Percentage
Dental Defects	4.2
Tonsils	11.7
Respiratory System	8.7
Circulatory System	1.0
Acute Rheumatism	1.7
Defective Vision	20.7
Nervous Disorders	0.9
Syphilis	0.0

(It will be noted that no routine blood examination for syphilis was undertaken in the case of African juveniles).

The following passage is quoted from the Medical Officers report on African school children :—

' Their main anomaly of health appears to be their susceptibility to prevailing infections particularly those affecting the lungs. A short attendance at some of the school clinics shows that they have very little resistance to such infections and one naturally wonders why. The causes of debility are legion and probably increase in number as the subjects leave their reserves and come to live under town conditions.'

With regard to the lung infections—J. B. Orr and J. L. Gilks in their researches into nutrition and the physique and health of two African tribes state :—

' Almost 50 per cent of deaths in hospitals are due to diseases of the respiratory system, of which pneumonia is probably the most serious, appearing for several years as the chief cause of adult mortality

in both Nairobi and Mombasa. Tuberculosis is common and usually appears as second on the list of causes of adult mortality in townships. Records of the cause of death from the native hospitals in Nairobi and Mombasa show that nearly 50 per cent of infantile deaths are due to pneumonia and broncho-pneumonia.'

These observers have brought forward data relating the increased susceptibility to infections and deficiencies in diet; particularly with regard to the Akikuyu, but if in the reserve their diet is lacking in green vegetables and milk, much more so is it in the towns where these commodities are to them comparatively expensive.

The fact that two-thirds of the children examined were found to be harbouring intestinal parasites and that anemia in some degree is almost universal is sufficient to indicate a low standard of health apart from the susceptibility to infection and the defects enumerated.

Physical deficiency and delinquency.

The importance of physical deficiency among the factors producing delinquency is not easy to estimate. Extremists have gone so far as to say that crime itself is a symptom of disease and the offender is always a subject for medical investigation and treatment rather than for judicial trial and sentence. While dismissing this view it is well known to all how the passing indisposition affects will power and self control and results in an irritability of temper and an inability to concentrate or to sustain mental and physical effort. Much more so the chronic ailment or disability, the sufferer finds himself at a disadvantage in the competitive struggle for existence and drifts from one casual job to another finally developing a grievance against his more fortunate fellow-men or against society as a whole.

Among juvenile delinquents in London it has been found that physical defects are 1.25 times as frequent as among non-delinquents from the same areas ('The Young Delinquent' by Cyril Burt).

While adequate medical treatment of physical defects can hardly be expected *per se* to produce startling reformation in the character of a delinquent it may do much to forestall crime and misconduct if carried out early in life; hence one of the many reasons for routine medical

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inspection of school children and their subsequent treatment.

In this connexion I would stress the desirability of a comprehensive medical examination, both physical and mental, of every juvenile delinquent. Defects might be found which, possibly, would throw some light on the causes leading up to the lapse and which might modify considerably the punishment inflicted."

EDUCATION PROVIDED FOR JUVENILES.

27. Educational facilities are provided for the young African in Nairobi to a limited extent. The Church Missionary Society has a large school in Whitehouse Road. This school is relatively remote from Pumwani and Pangani. In addition, the Society has an institution for the training of girls at Pumwani. Other activities of this body are the schools at the Police Depot and in the K.A.R. lines. The Catholic Missions have a large school at St. Peter Clavers, a hostel at Eastleigh for girls, and a school at Pumwani. The Salvation Army has a small school. Government provides for the children of retired K.A.R. men (mainly Nubians) at Kibra. A Government school is also held at the Memorial Hall, Pumwani. A school has been established for Somali children to which Government gave a small special grant. This school has recently closed. In addition to these day schools, the Catholic Mission and the Church Missionary Society provide night schools.

The following are the figures of attendances in 1931:—

	Boys	Girls	Night Schools
Roman Catholic Missions	227	112	50
Church Missionary Society	197	25	50
Police School	35		
Somali School	45		
Salvation Army	6	12	
Pumwani School	43		
King's African Rifles School	30		
*TOTAL	578	149	100

* These figures do not include 84 children attending the school at Kibra, which is outside the Municipality, but they include 159 children attending St. Austin's Roman Catholic Mission, though a few of these may come from outside the Municipal area.

These figures show that of a total number of children of 2,253 between 7 and 15 years of age, a relatively small proportion attend school. The number of 827 shown in the table above includes a considerable number under 7, and some at

least over 15. It is certain that at least 60 per cent of the children of school-going age are not in receipt of any regular education. This percentage is somewhat less than that obtaining in the Native Reserves, but it must be remembered that an uneducated child at large in a town is a potentially greater danger than an uneducated child in his own village. If the children of Pumwani and Pangani are alone considered, the percentage is undoubtedly higher.

CONTROL EXERCISED OVER JUVENILES.

28. The alarming increase in the number of convictions of native juveniles in Nairobi during the past three years shows that control is largely lacking. According to the Labour Officer, a considerable number of juveniles are in employment without their parents' consent.

With regard to female juveniles, an increasing number of young women and girls are becoming prostitutes, in addition to those born in Nairobi, who have little to look forward to save a life of prostitution.

According to the Superintendent of Locations, numbers of girls are sent out by their parents, resident in the locations, to earn money by prostitution in the town. It might be argued that among Africans the general views on sexual questions are much laxer than among Europeans, but none the less native public opinion is quite definite on the subject of prostitution.

The mixture of some twenty-four different tribes in the town precludes the possibility of any effective tribal control over juveniles such as exists in the Reserves, and the social spirit in the Native Locations is not sufficiently developed to take its place, except possibly in a minor way in the case of the Coast Swahilis.

STATISTICS OF JUVENILE CRIME IN NAIROBI.

29. The following are the convictions of juvenile offenders in Nairobi during the past three years:—

	1929	1930	1931
Under Local and Special Laws	46	122	309
Under Penal Code	48	36	76
Vagrancy	60	164	79
TOTAL	154	322	463

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30. We have in the previous paragraph given some account of the factors which in our opinion conduce to the growth of a juvenile delinquent population in Nairobi. These may be briefly summarized:—

- (1) A drift from parental authority in the reserves to the town.
- (2) The composite nature of the population.
- (3) Inadequacy of permanent employment.
- (4) Conditions of employment.
- (5) Inadequate and unsatisfactory housing.
- (6) Unsatisfactory hygienic conditions.
- (7) Inadequate educational facilities, with consequent lack of general control.

We have to consider the steps required to remedy this state of affairs. We consider that it is important to prevent children of the reserves from drifting away from parental control and coming into Nairobi to increase the juvenile population. That population should be provided with improved educational facilities, not only by increasing the number of schools, but by raising the age of employment. The hygienic conditions must be improved, and we trust that among the methods of improvement may be the reduction of Africans in Nairobi, the closing of the Pangani location and the development of the new Native Township.

31. One definite remedial measure is the Bill to Amend the Employment of Natives Ordinance, which has been referred to us for comment. The clauses affecting juveniles are printed as Appendix I to our report. These clauses, with the amendments and additions which we suggest below, will do something to restrict and regulate the drift of the young African to the town.

32. Clauses 33 (1) and (2) require that a juvenile shall obtain a certificate from a District Officer before he seeks work and that the certificate shall indicate that parental permission to look for work has been given, and we recommend that these clauses should be adopted as they stand. We believe that it is desirable both that some control should be exercised over the numbers of juveniles looking for work, or pretending to look for work, in Nairobi, and also that parental authority should be upheld by making parental consent a precedent to juvenile employment.

Recommendation 1

33. With regard to Clause 33 (3) (a), we recommend that it should be made possible for a native juvenile of 14 years and over to apply to a District Officer for a permit to seek employment, when this permission has been unreasonably refused him by an unsatisfactory parent or guardian. We consider that it is not unreasonable that District Officers should have this discretion, even though it may be rarely used.

Recommendation 2

34. Clauses 33 (3) (b).—We recommend that a proviso should be added giving discretionary powers to the Governor in Council to increase the age limit of ten years in different areas and for different types of employment; that in any case the age limit for Nairobi should be increased to twelve years, and if it is found necessary this maximum should be further increased at a later date, provided that educational facilities are forthcoming. The provision of improved educational facilities we regard as urgent and essential. If these improved educational facilities are not fully utilized, the question of some form of compulsory education will have to be considered.

Recommendation 3

35. Clause 34.—The powers vested in District Officers under this clause should be extended to Labour Officers also, and a general governing clause be added to the draft Bill should make provision for the cost entailed in returning a juvenile to his home under the provision of this section.

Recommendation 4

36. We recommend that a clause should be added to the draft Bill making it an offence for an employer to engage any native juvenile who does not possess a permit to seek for employment.

Recommendation 5

37. We may hope that if the above recommendations are accepted the number of juveniles in Nairobi will be materially decreased, but we are not so optimistic as to suppose that the juvenile delinquent will disappear. We have to consider how best to deal with the delinquency or crime which exists. We have already emphasized the value of the application of preventive and remedial measures to potential juvenile criminals. It is therefore, in our opinion, important to consider to what extent the one Government-remedial institution, the Kabete Reformatory, fulfils its purpose, to what extent it may be said to fail, and in what directions, if any, it is susceptible of improvement.

(Para. 18)

38. The Reformatory, which is officially designated a "Reformatory School," accommodates about 200 boys at an annual recurrent cost (net) of about £4,000.

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38. The Reformatory, which is officially designated a "Reformatory School," accommodates about 200 boys at an annual recurrent cost (net) of about £4,000.

To this Reformatory School are committed juvenile delinquents for periods of not less than three and not more than seven years. No boy who is under ten years old when committed may be committed for less than four years.

39. When admitted, any boy who is to be detained for five years or more is put to learn a trade, the trades taught being carpentry, masonry, tailoring, metal work, electrical work, gardening and blacksmithing. Those boys whose periods of detention are less than five years are first watched to discover what aptitude they show for certain types of work before being put to learn a trade.

On discharge, many are capable artisans. Of these, some find employment on European estates, others set up workshops of their own in the Reserves.

40. It is believed that most of the present inmates of the Reformatory were not under parental control when they were convicted. We are informed that many of the newly admitted, not being accustomed to any form of discipline, attempt to escape during their first year of detention, but that later they are wont to accept their lot and settle down.

41. During their first six months, inmates receive no money; during their second six months, if their conduct is satisfactory, they receive 2 cents per diem; during their third six months, 4 cents, and thereafter 6 cents. As a result, a boy, if his conduct has proved reasonably satisfactory, may have as much as Sh. 80 due to him on leaving the Reformatory.

42. Some of the elder boys are given limited authority as monitors, and as such are entrusted with the supervision of small gangs of inmates. We are informed that although they are inclined to be overbearing in the exercise of their authority they often do their work more satisfactorily than the warders, who do not appear to be well qualified for the duties they have to perform.

43. According to the Superintendent, the general standard of discipline and behaviour in the Reformatory is affected in no small degree by impressions from the neighbouring Kikuyu Reserve. As there are more Kikuyu in the Reformatory than of any other tribe, and as the boys frequently do outside work, this is not surprising.

44. The Reformatory is under the control of a Committee of Management, consisting of thirteen members under the chairmanship of the Chief Justice. This Committee meets at least as often as once every six months, and a visit is paid to the Reformatory by one of the members every month.

45. The European establishment of the institution consists of a superintendent, a clerk and storekeeper, with three instructors in masonry, carpentry and metal work, who are assisted by native instructors. There are twenty-one native warders.

46. The institution may be said to fulfil its purpose in so far as—

- (1) it keeps the boys out of harm's way during their period of detention;
- (2) it teaches them trades by which they should be able to earn an honest living on release;
- (3) it subjects them to discipline;
- (4) it feeds them and keeps them healthily occupied;
- (5) it provides every facility for religious instruction.

47. The directions in which it appears to fail as as follows:—

- (a) Practically no reliable information is obtained as to the boys' parentage and antecedents.
- (b) The financial provision made by Government is insufficient to secure warders of the right type. The term "warders" is perhaps unfortunate in that it suggests that the purpose of the institution is penal rather than remedial. It is indeed known among Africans as the *jalli ya watoto*.
- (c) There is no Government organization for the after care of boys discharged from the Reformatory.
- (d) The only native teacher employed at the Reformatory is largely occupied with clerical and storekeeping work.
- (e) The number of re-convictions appears to show that the Reformatory is unsuccessful in influencing the amount of crime.
- (f) Owing to administrative difficulties the incentive to good behaviour created by the issue of good conduct stripes has been withdrawn, and we are not satisfied that the present system of confiscation of all money earned is strictly in accordance with the Rules under the Reformatory Ordinance.

48. The general result is that the Reformatory is rather of the nature of a prison than a school, that there is little, if any, reformation, and quite inadequate education. In this

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connexion we think it *only right* to quote the following passage from a communication received from Father Bernhard, who takes a very active interest in this institution:—

"As far as my experience goes, I would classify the Reformatory boys into three groups.

"Some 25 per cent seem to be really vicious, ready to commit crime, if necessary, in order to obtain what they are longing for. They do not reform, and only bear their lot because they have to. When discharged, they at once follow their vicious inclinations. If they attend religious instruction it makes only a superficial impression upon them, and I feel very doubtful about their motives for attending, whether with a desire to amend or simply for distraction.

"A greater number, up to 60 per cent I would say, seem to be simply mischievous, because they were under no control, left to themselves, without good guidance, rather in an unfavourable atmosphere.

"A few, some 15 per cent I think, are very good natures indeed, and are glad to be given a chance to become honest men."

49. With regard to the future of the Reformatory, we are of the opinion that this must depend upon the legislation now under consideration, which provides for probation officers, places of detention, industrial schools and reformatories. In any case, however, it is unlikely to be successful as a remedial institution unless it is under the supervision and control of an officer who is by outlook, training and personality, fully qualified to give effect to the real purpose of the institution.

50. We therefore recommend that an Administrative Officer should be granted extra leave to enable him to study the subject of treatment of juvenile offenders in Reformatories, Borstal Institutes, and other institutions in England; that he should then make a report as to the type of officer required for appointment as a Reformatory Superintendent, and that in the meantime the Bill relating to Children and Young Persons be not proceeded with until such report is received.

51. In addition to the foregoing, we make the following recommendations in connexion with the juvenile population of Nairobi.

To meet the needs of the juvenile population, increased grants should be made, when financial circumstances permit, to missionary bodies in Nairobi and powers given to them to undertake the control of all Christian and pagan children handed over to them, and give them an approved form of training or education. At the same time the Government School in Lumwani should be developed.

The School Medical Service, which provides for all schools to be visited regularly, should be re-instituted.

The employment of unregistered juveniles by the Nairobi Municipality should be prohibited.

Native juveniles under no control should be returned, if possible, to their tribe or relatives.

Children returning to Nairobi after repatriation should be placed in an institution under responsible management, to reside there as boarders if necessary.

Remedial institutions in the form of industrial schools should be established under the Juvenile Offenders Act, and provision should be made for the establishment and maintenance of such schools by missionary bodies for their own adherents.

52. We consider, however, that in addition to industrial schools at least one reformatory will be necessary to which may be drafted boys who have proved too unruly to be retained in industrial schools, and we are of opinion that any such reformatory should be a State institution managed by an officer of Government with special training and qualifications.

53. The following figures show the crimes of which the present inmates of the Reformatory have been convicted, their tribal distribution, etc. :—

(a) List of Crimes of Reformatory Inmates.

- 76 Theft.
- 17 Theft by a servant.
- 13 Theft in a dwelling.
- 46 Housebreaking.
- 1 Horse trespass.
- 1 Abetment of housebreaking.
- 5 Burglary.
- 1 Robbery.
- 9 Returning after being repatriated.
- 7 Stock theft.
- 3 Indecent assault.
- 4 Using criminal force.

connexion we think it only right to quote the following passage from a communication received from Father Bernhard, who takes a very active interest in this institution :-

"As far as my experience goes, I would classify the Reformatory boys into three groups.

"Some 25 per cent seem to be really vicious, ready to commit crime, if necessary, in order to obtain what they are longing for. They do not reform, and only bear their lot because they have to. When discharged, they at once follow their vicious inclinations. If they attend religious instruction it makes only a superficial impression upon them, and I feel very doubtful about their motives for attending, whether with a desire to amend or simply for distraction.

"A greater number, up to 60 per cent I would say, seem to be simply mischievous, because they were under no control, left to themselves, without good guidance, rather in an unfavourable atmosphere.

"A few, some 15 per cent I think, are very good natures indeed, and are glad to be given a chance to become honest men."

49. With regard to the future of the Reformatory, we are of the opinion that this must depend upon the legislation now under consideration, which provides for probation officers, places of detention, industrial schools and reformatories. In any case, however, it is unlikely to be successful as a remedial institution unless it is under the supervision and control of an officer who is by outlook, training and personality, fully qualified to give effect to the real purpose of the institution.

50. We therefore recommend that an Administrative Officer should be granted extra leave to enable him to study the subject of treatment of juvenile offenders in Reformatories, Borstal Institutes, and other institutions in England; that he should then make a report as to the type of officer required for appointment as a Reformatory Superintendent, and that in the meantime the Bill relating to Children and Young Persons be not proceeded with until such report is received.

51. In addition to the foregoing, we make the following recommendations in connexion with the juvenile population of Nairobi.

To meet the needs of the juvenile population, increased grants should be made, when financial circumstances permit, to missionary bodies in Nairobi and powers given to them to undertake the control of all Christian and pagan children handed over to them, and give them an approved form of training or education. At the same time the Government School in Pumwani should be developed.

The School Medical Service, which provides for all schools to be visited regularly, should be re-instituted.

The employment of unregistered juveniles by the Nairobi Municipality should be prohibited.

Native juveniles under no control should be returned, if possible, to their tribe or relatives.

Children returning to Nairobi after repatriation should be placed in an institution under responsible management, to reside there as boarders if necessary.

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53. The following figures show the crimes of which the present inmates of the Reformatory have been convicted, their tribal distribution, etc. :-

(a) List of Crimes of Reformatory Inmates.

- 76 Theft.
- 17 Theft by a servant.
- 12 Theft in a dwelling.
- 46 Housebreaking.
 - 1 House trespass.
 - 1 Abetment of housebreaking.
- 5 Burglary.
- 1 Robbery.
- 9 Returning after being repatriated.
- 7 Stock theft.
- 3 Indecent assault.
- 4 Using criminal force.

- 1 Intrusion of the privacy of a woman.
 4 Mischief.
 3 Dishonest possession of stolen property.
 3 Forgery.
 1 Cheating.
 1 Criminal breach of trust.
 1 Attempted murder.
 1 Causing death.
 1 Unlawful use of two cycles.
 1 Vagrancy.

199

(b) Courts at which Inmates of the Reformatory
 have been Sentenced.

Place.	Number.
Nairobi	44
Kisumu	10
Mombasa	29
Eldoret	19
Nakuru	9
Kitale	6
Narok	3
Thika	4
Dagoretti	1
Fort Hall	4
Machakos	9
Kiambu	15
Rumuruti	9
Naivasha	19
Kisii	3
Meru	1
Kapsabet	1
Nyeri	2
Kakamega	3
Kajiado	1
Voi	1
Baringo	1
Tambach	2
Kavirondo	1
Malindi	1
Kericho	1

Total ... 199

(c) Tribal Distribution of Inmates of the Reformatory.

Kikuyu	74	Boys.
Meru	3	"
Ndia Kikuyu	2	"
Embu	1	"
Luo	13	"
Kisii	7	"
Maragoli	1	"
Elgeyo	2	"
Mumias	3	"
Kakamega	7	"
Wagishu	2	"
Tiriki	5	"
Sebei	2	"
Bunyoro	2	"
Wakamba	16	"
Wa Chagga	12	"
Nandi	9	"
M'Ganda	4	"
Lumbwa	5	"
Washihiri	3	"
Arabs	4	"
Indians	1	"
Giriama	2	"
Masai	3	"
Pokomo	1	"
Kitosh	1	"
Sukuma	1	"
Suk	1	"
Kirewe	1	"
Pemba	1	"
Mururi	1	"
Half-caste Seychelles	1	"
Marakwet	1	"
Kamasia	1	"
Jomvo	1	"
Mkidi	1	"
Mzigua	1	"
Mdigo	2	"

Total ... 199

- 1 Intrusion of the privacy of a woman.
 4 Mischievous.
 3 Dishonest possession of stolen property.
 3 Forgery.
 1 Cheating.
 1 Criminal breach of trust.
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Fort Hall	4
Machakos	9
Kiambu	15
Rumuruti	9
Naivasha	19
Kisii	3
Meru	1
Kapsabet	1
Nyeri	2
Kakamega	3
Kajiado	1
Voi	1
Baringo	1
Tambach	2
Kavirondo	1
Malindi	1
Kericho	1
Total	199

(c) Tribal Distribution of Inmates of the Reformatory
 74 Boys.

Kikuyu	3
Meru	2
Ndia Kikuyu	1
Embu	13
Luo	7
Kisii	1
Maragoli	2
Elgeyo	3
Mumias	7
Kakamega	2
Wagishu	5
Tiriki	2
Sebei	2
Bunyoro	16
Wakamba	12
Wa Chagga	9
Nandi	4
M'Ganda	5
Lumbwa	3
Washuhiri	4
Arabs	1
Indians	2
Giriama	3
Masai	1
Pokomo	1
Kitosh	1
Sukuma	1
Suk	1
Kirewe	1
Pemba	1
Mururi	1
Half-caste Seychelles	1
Marakwet	1
Kamasia	1
Jomvo	1
Mkidi	1
Mzigua	1
Mdigo	2
Total	199

(d) Ages of Inmates.

2 boys 11 years old.
10 " 12 " "
30 " 13 " "
30 " 14 " "
52 " 15 " "
37 " 16 " "
27 " 17 " "
11 " 18 " "

(e) Figures of Revenue and Expenditure of the Reformatory.

Revenue.	Year.	Net Cost per Head.
Ra. 105	1919	£16 4 00
Fl. 407	1920	
Fl. 2,472	1921	
£530	1922	
£1,136	1923	£14 15 06
£1,235	1924	£14 12 00
£1,280	1925	£13 16 79
£994	1926	£14 16 50
£1,146	1927	£14 8 18
£1,273	1928	£11 17 00
£1,670	1929	£14 12 35
£1,555	1930	£14 8 14
£735	1931	£21 10 07

(f) Re-convictions of Boys Discharged from the Reformatory.

(Figures supplied by the Central Finger Print Bureau.)

YEAR	Number of Boys Re-convicted	Number of Re-convictions	DETAIL		Remarks
			Boys	Number of times Re-convicted	
1926	20	29	16	1	
			1	2	
			2	3	
			1	5	
			20	29	
1928	34	45	28	4	
			3	2	
			2	3	
			1	5	
			34	45	
1927	36	41	32	1	
			3	2	
			1	3	
			36	41	
1928	57	81	43	1	
			7	2	
			4	3	
			3	4	
			57	81	
1929	64	96	45	1	
			11	2	
			3	3	
			5	4	
			64	96	
1930	52	80	33	1	
			13	2	
			4	3	
			1	4	
			1	5	
			52	80	
1931	68	106	46	1	
			17	2	
			1	3	
			1	4	
			1	5	
			2	7	
			68	106	
TOTAL	331	476	331	476	

54. In paragraphs 49 and 50 we have referred to the draft Bill relating to children and young persons. This was referred to us for our consideration and report. A copy of the Bill is at Appendix II. We have considered the Bill in detail, and, subject to the recommendations made below, it has our general approval; we have, however, to advise Your Excellency that the costs of its administration are likely to be high. The Bill follows the model which was drafted by the Colonial Office for general adoption throughout the Colonies, and was approved in principle by the Colonial Office Conference, 1930. We consider that the Ordinance should be placed upon the Statute Book with suspensory clauses, so that it can be applied gradually as the financial circumstances of the Colony permit.

55. On points of detail in the Bill we have the following recommendations to make:—

Recommendation 14 *Clause 3.*—Consideration should be given to the extent, if any, to which convictions in juvenile courts may be used to enhance sentences in subsequent convictions.

Recommendation 15 *Clause 8 (c).*—The words "if he has any" be inserted in the last line but one of the sub-section, between the words "parent or guardian" and the words "the meaning of."

Recommendation 16 *Clause 9.*—A salaried officer should be ultimately appointed to superintend the work of probation officers in Nairobi, but meanwhile statutory powers under the Ordinance should be given to some officer described in the Bill as holding a public office.

Recommendation 17 *Clause 15.*—The words "any officer or person enumerated in the Schedule" be inserted instead of "any person," and a Schedule compiled of officers and persons in whom the powers laid down in this clause should be inserted. Such Schedule should be variable by the Governor.

Recommendation 18 *Clause 17 (e) and (f).*—Provision should be made in the Ordinance by in the Rules as to the period for which a juvenile may be committed to a reformatory or industrial school and for the transfer of juveniles from a place of detention to an industrial school or reformatory, or from any one of these types of institutions to any other by administrative order.

Recommendation 19 We recommend that either in the Bill itself, or in a pamphlet of instructions to those responsible for administering the Ordinance, it should be clearly stated what are the aims and purposes of the different types of detention.

CHAPTER III.

HABITUAL CRIMINALS.

56. From the statistics placed before us, it is clear that the number of recidivists and habitual criminals is considerable, that they constitute a definite menace to society, and that the position is sufficiently serious to warrant drastic measures of control beyond those provided by the laws of the Colony as they exist to-day.

57. It is evident that there is a growing class of irclaimables, who cannot be expected to earn an honest living, as their release from successive sentences of imprisonment is promptly followed by the commission of yet other crime. For these there is little or no prospect of reformation. The only method of dealing with them seems to be to prevent them from preying further upon law-abiding citizens. In other words, preventive detention is indicated.

58. From the following table it will be seen also that there are at present in the Colony 64 persons with ten or more convictions, and 279 with more than four. These convictions are not all for serious crime, but many of them are.

59. It will be seen also that the total number of supervisees at present ordered to report in accordance with section 329 of the Criminal Procedure Code is 453. The section reads as follows:—

"329. (1) When any person, having been convicted of any offence punishable with imprisonment for a term of three years or upwards, is again convicted of any offence punishable with imprisonment for a term of three years or upwards, the court may, if it thinks fit, at the time of passing sentence of imprisonment on such person, also order that he shall be subject to police supervision as hereinafter provided for a term not exceeding five years from the date of the expiration of such sentence.

"(2) If such conviction is set aside on appeal or otherwise, such order shall become void.

"(3) An order under this section may be made by the Supreme Court when exercising its powers of revision."

Of these 433, 250 are in prison, having been re-convicted during their periods of supervision, 18 have left the Colony, 38 have been lost sight of, and 147 are at present reporting to the police.

54. In paragraphs 49 and 50 we have referred to the draft Bill relating to children and young persons. This was referred to us for our consideration and report. A copy of the Bill is at Appendix II. We have considered the Bill in detail, and, subject to the recommendations made below, it has our general approval; we have, however, to advise Your Excellency that the costs of its administration are likely to be high. The Bill follows the model which was drafted by the Colonial Office for general adoption throughout the Colonies, and was approved in principle by the Colonial Office Conference, 1930. We consider that the Ordinance should be placed upon the Statute Book with suspensory clauses, so that it can be applied gradually as the financial circumstances of the Colony permit.

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57. It is evident that there is a growing class of irremediably, who cannot be expected to earn an honest living, as their release from successive sentences of imprisonment is promptly followed by the commission of yet other crime. For these there is little or no prospect of reformation. The only method of dealing with them seems to be to prevent them from preying further upon law-abiding citizens. In other words, preventive detention is indicated.

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"(2) If such conviction is set aside on appeal or otherwise, such order shall become void."

"(3) An order under this section may be made by the Supreme Court when exercising its powers of revision."

Of these 453, 250 are in prison, having been re-convicted during their periods of supervision, 18 have left the Colony, 88 have been lost sight of, and 147 are at present reporting to the police.

61. The following table shows the tribal distribution of the 250 who are in prison. These figures also show a very great preponderance of Kikuyu.—

SUPERVISEE IN PRISON

Number of Convicts	Total
2	1
3	1
4	1
5	1
6	1
7	1
8	1
9	1
10	1
11	1
12	1
13	1
14	1
15	1
16	1
17	1
18	1
19	1
20	1
21	1
22	1
23	1
24	1
25	1
26	1
27	1
28	1
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31	1
32	1
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104	1
105	1
106	1
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112	1
113	1
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233	1
234	1
235	1
236	1
237	1
238	1
239	1
240	1
241	1
242	1
243	1
244	1
245	1
246	1
247	1
248	1
249	1
250	1

62. The 38 lost sight of, and the 18 who have left the Colony, are distributed as follows:—

Number of Convicts	Kikuyu	N. Kavirondo	Jalauo	Bugida	Swahi	Lumbwa	Naudi	Mkamba	Mgishu	Mumias	Kisii	Meru	Kijesh	Myanwezi
2	1	1				1								1
3	4	2	3				1							
4	2													
5	2	1							1	1				
6	1													
7	1													
8	2							1						
9	1				1									
10			1											
11														
Total	11	7	8	1	1	1	1	1	1	1	1	1	2	1

SUPERVISEES—LEFT COLONY—TOTAL 18

S.S. No.	Tribe	Reason for Leaving
59	Buganda	Left of own accord.
130	"	"
270	"	"
332	"	"
354	Swahili	"
595	"	Repatriated.
340	Mumias	Left of own accord.
188	Myanwezi	"
472	Nyassa	"
81	Other Tribes	Repatriated.
782	(Uganda)	Left of own accord.
913	"	"
528	Other Tribes	Repatriated.
721	(Tanganyika)	Left of own accord.
764	"	"
895	"	Repatriated.
1209	"	Left of own accord.
197	Bajuni	"

Number of Convictions	Buganda	Swahili	Mombasa	Mtynswazi	Nyasal	Other tribes—Uganda	Other tribes—Tanganyika	Bahari
2						1		
3							1	
4								
5	2						2	
6								
7	2	1	1			1		
8				1				
9					1			1
10		1				1		
15						1		
Total	4	2	1	1	1	3	5	1

63. With regard to the figures of habitual criminals whose country of origin is other than Kenya, we have considered the desirability of introducing legislation to provide for their compulsory return to their countries of origin after conviction for serious crime.

64. The conditions under which criminals or vagrants may be deported from the Colony are laid down in section 37 of Chapter 62 and section 10 of Chapter 63 of the Revised Laws of Kenya which read as follows:—

*Section 37, Chapter 62, Revised Laws of Kenya,
The Immigration Restriction Ordinance.*

"When any person has been convicted by any court within a period of five years from the date of entering the Colony, of murder or an offence for which the court has imposed a sentence of imprisonment, the Governor may, if he thinks fit, make an order requiring such person to leave the Colony within a time fixed by the order and thereafter to remain out of the Colony, and such person shall be liable to be dealt with as a prohibited immigrant."

*Section 10 (3), Chapter 63, Revised Laws of Kenya,
The Vagrancy Ordinance.*

"(1) If within a reasonable time not exceeding three months from the date on which a vagrant was committed to a house of detention no suitable employment has been obtained for, and been accepted by him, if such

vagrant is not a British subject born in the Colony or a native of the Colony, the Governor in Council may order him to be repatriated accordingly; and any person who returns to the Colony after having been repatriated under this Ordinance without the licence of the Governor in writing first had and obtained shall be guilty of an offence and shall on conviction be liable to imprisonment of either description for a term not exceeding six months.

(2) For the purpose of repatriating a vagrant under sub-section (1) of this section it shall be lawful for such officer as the Governor may direct to place the vagrant on board ship and such vagrant shall be detained on board and shall be deemed to be in lawful custody while the ship is within the jurisdiction of the Colony.

(3) If within a reasonable time not exceeding three months from the date on which a vagrant was committed to a house of detention no suitable employment has been obtained for, and accepted by him, if such vagrant is a native of the Colony, the Governor in Council may order him to be returned to the area (if any), reserved for the use of his tribe or sub-tribe, and he shall be returned accordingly; and any native who after having been returned to the area reserved for the use of his tribe or sub-tribe leaves such reserve, without the licence in writing of the Senior Commissioner of the Province in which such reserve is situated first had and obtained, shall be guilty of an offence and shall on conviction be liable to imprisonment of either description for a term not exceeding six months."

65. We understand that a Bill was drafted recently to provide for the deportation of undesirables and that included in the draft is a provision for the deportation of convicted criminals. We appreciate the difficulties in the way of a general authorization to deport all criminals born outside Kenya, but we are of opinion that a system under which the East African Governments would mutually agree to the return of native criminals to the territories to which they belong has much to be said in its favour and we therefore recommend that the possibilities of initiating such a system be investigated.

Number of Convictions	Buganda	Swahili	Mumbasa	Mtambanwazi	Nyasal	Other tribes—Uganda	Other tribes—Tanganika	Rajani
2						1		
3						1		
4							1	
5	2							
6								
7	2	1	1			1		
8				1				
9					1			1
10		1				1		
15						1		
Total	4	2	1	1	1	3	5	1

63. With regard to the figures of habitual criminals whose country of origin is other than Kenya, we have considered the desirability of introducing legislation to provide for their compulsory return to their countries of origin after conviction for serious crime.

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"When any person has been convicted by any court within a period of five years from the date of entering the Colony, of murder or an offence for which the court has imposed a sentence of imprisonment, the Governor may, if he thinks fit, make an order requiring such person to leave the Colony within a time fixed by the order and thereafter to remain out of the Colony, and such person shall be liable to be dealt with as a prohibited immigrant."

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The Vagrancy Ordinance.*

"(1) If within a reasonable time not exceeding three months from the date on which a vagrant was committed to a house of detention no suitable employment has been obtained for, and been accepted by him, if such

vagrant is not a British subject born in the Colony or a native of the Colony, the Governor in Council may order him to be repatriated accordingly; and any person who returns to the Colony after having been repatriated under this Ordinance without the licence of the Governor in writing first had and obtained shall be guilty of an offence and shall on conviction be liable to imprisonment of either description for a term not exceeding six months.

(2) For the purpose of repatriating a vagrant under sub-section (1) of this section it shall be lawful for such officer as the Governor may direct to place the vagrant on board ship and such vagrant shall be detained on board and shall be deemed to be in lawful custody while the ship is within the jurisdiction of the Colony.

(3) If within a reasonable time not exceeding three months from the date on which a vagrant was committed to a house of detention no suitable employment has been obtained for, and accepted by him, if such vagrant is a native of the Colony, the Governor in Council may order him to be returned to the area (if any), reserved for the use of his tribe or sub-tribe, and he shall be returned accordingly; and any native who after having been returned accordingly; and any native who after having been returned to the area reserved for the use of his tribe or sub-tribe leaves such reserve, without the licence in writing of the Senior Commissioner of the Province in which such reserve is situated first had and obtained, shall be guilty of an offence and shall on conviction be liable to imprisonment of either description for a term not exceeding six months."

65. We understand that a Bill was drafted recently to provide for the deportation of undesirables and that included in the draft is a provision for the deportation of convicted criminals. We appreciate the difficulties in the way of a general authorization to deport all criminals born outside Kenya, but we are of opinion that a system under which the East African Governments would mutually agree to the return of native criminals to the territories to which they belong has much to be said in its favour and we therefore recommend that the possibilities of initiating such a system be investigated.

Number of Convictions	Buganda	Swahili	Mumias	Muyamwezi	Nyasa	Other tribes—Uganda	Other tribes—Tanganyika	Bajuni
2	..	..	..	..	..	1	..	..
3	..	..	..	..	..	..	1	..
4	2	..	..	..	..	..	2	..
5	..	..	..	..	..	..	..	..
6	2	..	..	..	..	..	2	..
7	..	1	1	..	..	1	..	..
8	..	..	..	1	..	..	..	..
9	..	..	..	..	1	..	..	1
10	..	1	..	..	..	..	..	..
15	..	..	..	..	..	1	..	..
Total	4	2	1	1	1	3	5	1

63. With regard to the figures of habitual criminals whose country of origin is other than Kenya, we have considered the desirability of introducing legislation to provide for their compulsory return to their countries of origin after conviction for serious crime.

64. The conditions under which criminals or vagrants may be deported from the Colony are laid down in section 37 of Chapter 62 and section 10 of Chapter 63 of the Revised Laws of Kenya which read as follows:—

*Section 37, Chapter 62, Revised Laws of Kenya,
The Immigration Restriction Ordinance.*

"When any person has been convicted by any court within a period of five years from the date of entering the Colony, of murder or an offence for which the court has imposed a sentence of imprisonment, the Governor may, if he thinks fit, make an order requiring such person to leave the Colony within a time fixed by the order and thereafter to remain out of the Colony, and such person shall be liable to be dealt with as a prohibited immigrant."

*Section 10 (3), Chapter 63, Revised Laws of Kenya,
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Number of Convictions	Uganda	Swahili	Munis	Miryamwazi	Nyasa	Other tribes—Uganda	Other tribes—Tanganika	Rajani
2						1		
3							1	
4								
5	2						2	
6								
7	2	1	1			1		
8				1				
9					1			1
10		1						
15						1		
Total	4	2	1	1	1	3	5	1

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PREVENTIVE DETENTION.

66. In England a sentence of preventive detention is in addition to, and follows, a sentence of penal servitude, and preventive detention may only be awarded where crime in question is punishable by penal servitude.

The limits of a period of preventive detention are a term not exceeding ten years and not less than five.

67. In laying before Parliament the Rules for carrying out the act, Mr. Winston Churchill, then Secretary of State, stated:—

“Only the great need of society to be ‘secured’ from professional or dangerous criminals can justify the prolongation of the ordinary sentence of penal servitude by the addition of such preventive detention.”

He went on to say that the idea should not grow up that preventive detention afforded a pleasant and easy asylum for persons whose moral weakness or defective education merely rendered them a nuisance to society. On the contrary it was intended to introduce such mitigation into the conditions of convict life as would allow the longer detention of those persons who are professional criminals engaged in the more serious forms of crime, and it was not to be applied to persons who were a nuisance rather than a danger to society. The intention was to deal not with mere habituals but with professionals.

The professional criminal, as opposed to the habitual, is a man with an object, competent and often highly skilled, and who deliberately, with eyes open, prefers a life of crime, and knows all the tricks and turns necessary for that life.

68. The Preventive Detention Prison in England is at Camp Hill in the Isle of Wight, and one of the great advantages of the site selected is the opportunity for agricultural work of a severe nature.

The rules of the prison have been framed generally with the view that, consistent with discipline and safe custody, there should be a considerable modification of the severer aspects of penal servitude.

Promotion from the ordinary to the special grade is earned by good conduct and industry, as in penal servitude, but certain privileges such as association at meals, and in the

evenings, smoking, newspapers and magazines, etc., can be earned, as well as a small wage, not exceeding threepence a day, part of which can be expended on the purchase of articles of comfort from the canteen. Special provision has recently been made for the location in what are called “parole lines” of such men as are, in the opinion of the authorities, qualifying for conditional discharge. The rules permit a considerable relaxation of discipline and supervision, so that each man may be tested as to his fitness for re-entry into free life.

69. Under the penal servitude system in England a convict can, by industry and good conduct, reduce his sentence by as much as one-fourth, and then on discharge he remains under licence during the unexpired portion of the sentence. A prisoner under preventive detention remains in custody only until the advisory committee are able to report that if licensed there is a reasonable probability of his abstaining from crime.

70. The original intention of the framers of the Act was primarily that there should be no fixed limit of detention, but Parliament thought otherwise, and the present limit of ten years, with a minimum of five, was decided upon.

There are in England to-day many advocates of the indeterminate sentence who fear that the fixing of a definite limit, irrespective of a man's reformation, may defeat eventually the intention of the Act.

The Act does not touch that large army of habitual vagrants, drunkards, or offenders against by-laws and police regulations who figure so largely in the ordinary prison population. It is a weapon of defence to be used only where there is a danger to the community from a professed doer of anti-social acts being at large, and reverting cynically on discharge from prison to a repetition of predatory action or violent conduct. Used in this way, with caution, it is an invaluable instrument for social defence.

71. There are some 130 criminals detained at Camp Hill and in the opinion of the Commissioner of Prisons only fourteen out of upwards of a thousand convicts in Nairobi gaol would fall into the same category. To these must be added a number from the other prisons in the Colony. Probably the total number could be taken as twenty-five and thirty. The particulars of the fourteen convicts in Nairobi are as follows:—

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No.	Type of Offence	Present Sentence	Previous Convictions
2966/C	Various Robbery, Theft, Receiving, Poisoning, Attempted Murder.	14 years	4 previous—one of 18 months, one of 3 years.
3929/C	Theft	10 "	—one of 2 years, one of 5 years.
595/D	Housebreaking	10 "	—one of 2 years, one of 5 years.
9212	Stock Theft	15 "	—one of 1 year, one of 2 years.
994/D	Housebreaking	17 "	—one of 2 years, and one of 5 years, (in Prison since 1918).
2689/D	Housebreaking	40 years and 6 months	—(In Prison since 1918).
6173	Housebreaking (Violence)	22 years	—one of 2 years, one of 7 years (in and out of Prison since 1904).
191/K	Burglary and Theft	3 "	—two years, 4 years Reformatory, (in and out of Prison since 1904).
243/K	Theft and Arson	10 "	—two of 1 year, one of 7 years.
5517/J	Housebreaking and Theft	5 "	—one of 3 years, one of 5 years.
3021/H	Housebreaking	10 "	—two of 7 years.
3021/H	Housebreaking	10 "	—one of 2 years, one of 3 years, one of 5 years.
2764/C	Housebreaking	10 "	—one of 2 years, one of 5 years (in and out of Prison since 1914).
7541/J	Theft, Cheating, etc.	3 "	—one of 1 year, one of 2 years, one of 3 years, one of 10 years (in and out of Prison since 1912).

72. A complete records of the movements of supervisees is kept in the Criminal Investigation Department; the police report that the worst burglaries are committed by the supervisees who, under the present system, have plenty of opportunity to commit crime between the dates on which they have to report themselves.

73. In the opinion of the Commissioner of Police the means of limiting such opportunities are to be found in provision for a daily report. There would, however, be obvious difficulties in such a scheme and a more effective method would appear to be a system of prescribed licences whereby a supervisee would be confined to a certain area and if found outside would be liable to be returned to prison at once, and confined there for a period not exceeding that to which his time of supervision extended.

74. We therefore recommend that a system of prescribed licences should be introduced whereby an habitual criminal would be confined to a specified area within the district to which he properly belongs and if found outside such area would be liable to imprisonment for the balance of the time for which he was ordered to report.

In the case of habitual criminals who are deemed to be beyond reformation a place of preventive detention should be established in conjunction with the central gaol to which such criminals could be sent on an indeterminate sentence.

An habitual criminal should be sentenced to detention or placed on a prescribed licence only after a fourth conviction as is the practice in England and then only on an application from the Attorney General.

Recommendation 21

Recommendation 22

Recommendation 23

No.	Type of Offense	Present Sentence	Previous Convictions
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937D	Housebreaking	16 "	2 "—one of 2 years, one of 5 years.
944 D	Housebreaking	15 "	3 "—one of 1 year, one of 2 years.
2889 D	Housebreaking	17 "	—one of 1 year, one of 2 years, and one of 8 years. (In Prison since 1918).
6173	Housebreaking (Violence)	10 years and 6 months	—(In Prison since 1914).
191/K	Burglary and Theft	22 years	—one of 2 years, one of 7 years (in and out of Prison since 1904).
243/K	Theft and Arson	3 "	—two of 3 years, 4 years Reformatory (in and out of Prison since 1916).
551/J	Housebreaking and Theft	10 "	—two of 1 year, one of 7 years.
361/H	Housebreaking and Theft	15 "	—one of 7 years, one of 5 years.
302/H	Housebreaking	10 "	—one of 2 years, one of 3 years, one of 8 years.
2740C	Housebreaking	10 "	—one of 2 years, one of 5 years (in and out of Prison since 1914).
784/J	Theft, Cheating, etc.	3 "	—one of 1 year, one of 2 years, one of 3 years, one of 10 years (in and out of Prison since 1912).

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Recommendation 11

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Recommendation 13

CHAPTER IV.

VAGRANCY AND UNEMPLOYMENT.

75. The extent to which in more normal times unemployment and vagrancy may be considered to be responsible for crime in Nairobi is difficult to estimate at a time of unprecedented economic depression. One of the results of this depression is that throughout the Colony there are some twenty to thirty thousand less natives in employment than the normal number. At the same time owing to the fall in prices of local produce in the native reserves a far larger number than the normal are desirous of obtaining employment. The natural drift of those in search of employment who are unable to obtain it on farms is towards the large towns and particularly to Nairobi. It follows therefore that the difficulties which normally arise from the presence of unemployed and vagrants in Nairobi are at the time of the writing of this Report much accentuated.

76. But even in ordinary times Nairobi inevitably acts as a magnet to attract not only those who are genuinely in search of work but also loafers and ne'er-do-wells who are naturally prone to lapse into a life of crime. It is the opinion of the Commissioner of Police, with which we concur, that not only in the interests of law and order but also in the interests of the natives particularly concerned the former class should be controlled and the latter discouraged.

77. To meet the situation the following by-laws under the Municipal Corporations Ordinance, Chapter 84, have been enacted:—

By-law 187 which reads as follows:—

"The Corporation with the approval of the Governor may by notice published in the Gazette at any time and from time to time declare any area in the Municipality to be an area in which natives (other than servants housed by their non-native employers) shall not reside after a date to be specified in such notice except with the special written permission of the Town Clerk, who shall take all reasonable and practicable steps to communicate the terms of such notice to all natives resident in the area referred to therein.

From and after the date specified as aforesaid in any such notice any native who shall be found between the hours of 10 p.m. and 5 a.m., in the area referred to in

such notice, unless possessed of written permission as aforesaid or unless he shall be able to prove that he is not residing in such area, shall be guilty of an offence."

and By-law 557 (2) which reads as follows:—

"(2) Every native who—

(a) not being a servant housed therein by his or her employer or the husband, wife, or child of such servant, shall be found or remain, by day or by night, in or upon any house, tent, warehouse, coach-house, garage, stable, outhouse, yard, garden, or other premises without the written consent of the owner or occupier of such house, tent, warehouse, coach-house, garage, stable, outhouse, yard, garden or other premises or without other lawful excuse (the proof whereof shall be on such native) —

(b) without valid excuse, the proof whereof shall be on such native, shall be found lying, wandering or loitering in any highway, yard or other place during the night, or shall be found wandering abroad and or lodging in any barn or outhouse or in any deserted or unoccupied building or in the open air or under a tent or

(c) shall be found by night having in his possession without lawful excuse (the proof whereof shall be on such native) any dangerous or offensive weapon, firearm, or instrument of any key, picklock, crowbar, jemmy, jack, bit or other implement of housebreaking or having his or her face disguised;

(d) shall remain in the Municipality for a longer period than thirty-six hours (excluding from this period Sundays and Public Holidays) without employment (the proof whereof shall be on such native) or without having obtained from the Town Clerk a resident's or visitor's permit (as provided for in By-law 557A) or shall be found within the Municipality after the expiry of such permit."

After much consideration and after hearing the evidence of Mr. Jones, a well-known African whose views should carry much weight and who is in general Agreement with

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(d) shall remain in the Municipality for a longer period than thirty-six hours (excluding from this period Sundays and Public Holidays) without employment (the proof whereof shall be on such native) or without having obtained from the Town Clerk a resident's or visitor's permit (as provided for in By-law 357A) or shall be found within the Municipality after the expiry of such permit."

After much consideration and after hearing the evidence of Mr. Jones, a well-known African whose views should carry much weight and who is in general agreement with

us,* we are of the opinion that these by-laws are necessary and should be retained. Their abrogation would lead to a largely increased native population for which no proper accommodation could be provided and would increase and complicate the various problems dealt with in this report.

79. We are, however, deeply concerned at the large number of convictions recorded under these by-laws during 1931 and the first quarter of 1932 which are as follows:—

1931—	
Under Section 557 (2) (a)	1,908
Under Pass Section 557 (2) (d)	1,537
Under Licensing Section 557 (2) (b)	30
Total	3,375
1932. 1st January to 31st March—	
Under Section 557 (2) (a)	903
Under Pass Section 557 (2) (d)	32
Under Licensing Section 557 (2) (b)	2
Under 187 (residing outside native location)	87
Total	1,024

Fines collected for 1931 amounted to Sh. 7,886 and up to the end of March, 1932 to Sh. 2,213.

80. It appears that in 1932 many cases have been taken under (a) which might have been taken under (d).

As the by-laws do not appear to be harsh for honest law-abiding natives we have been at considerable pains to discover the reason for the large number of convictions.

The passes at present issued by the Municipality consist of the following:—

- (1) Ten-day passes for natives and unskilled workers, coloured red.
- (2) Twenty-one-day passes for skilled workers, coloured yellow.
- (3) One month passes for sellers of produce outside the commercial area, coloured yellow.
- (4) Six months passes for safari boys, coloured blue.

* While in general agreement with us as to the necessity for these by-laws, Mr. Jones expressed the opinion that the period of thirty-six hours specified in By-law 557 (2) (d) above is too short. We gave full consideration to this opinion, but are unable to agree with Mr. Jones. The period of thirty-six hours was deliberately adopted in 1930 to allow a visitor a day and a half or two nights and a day for the conduct of his legitimate business. If he had the time allowed him to work for his own benefit, he should apply for a pass under one of the categories enumerated in paragraph 80. It is not apparent that any extension of the thirty-six hours' limit would be of any real benefit to native visitors, while any such extension would tend to increase the number of visitors.

These passes with the exception of the last which are also issued by the Superintendent of the Locations, can only be obtained at the Municipal Native Affairs Office, and admittedly when a large number of natives are applying there may be some delay in their issue.

81. It appears that many natives neglect to provide themselves with the necessary passes simply because of the trouble and inconvenience entailed by the present lack of facilities for obtaining them.

We therefore recommend that when financial considerations permit clerks with authority to issue these passes be stationed on the main routes entering Nairobi.

Recommendation 24

82. The majority of convictions under 557 (2) (a) are for sleeping on premises without the written consent of the owner or occupier. It appears to us that many owners and occupiers are ignorant of the existence of this by-law and also that many natives rather than run the risk of refusal prefer the risk of detection. As to this preference we can do nothing; but the ignorance of owners and occupiers can be removed, and we therefore recommend—

That all necessary steps be taken to ensure that the provisions of By-law No. 537 (2) (a) are widely known.

Recommendation 25

83. It also seems to us probable that many natives from other districts are ignorant of the provisions of these by-laws and that consequently many may be convicted who have no intention whatever of law breaking (we do not suggest that in such cases conviction entails punishment); we therefore recommend—

That for the benefit of natives intending to visit Nairobi suitable opportunities be taken at barracks and at district offices to publish information as to the regulations and warnings as to the consequences of disregarding them.

Recommendation 26

84. There is reason to believe that the situation will improve with the return to more normal economic conditions.

us,* we are of the opinion that these by-laws are necessary and should be retained. Their abrogation would lead to a largely increased native population for which no proper accommodation could be provided and would increase and complicate the various problems dealt with in this report.

79. We are, however, deeply concerned at the large number of convictions recorded under these by-laws during 1931 and the first quarter of 1932 which are as follows:—

1931—	
Under Section 557 (2) (a)	1,806
Under Pass Section 557 (2) (d)	1,537
Under Loitering Section 557 (2) (b)	30
Total	3,375

1932. 1st January to 31st March—	
Under Section 557 (2) (a)	903
Under Pass Section 557 (2) (d)	32
Under Loitering Section 557 (2) (b)	2
Under 187 (residing outside native location)	87
Total	1,024

Fines collected for 1931 amounted to Sh. 7,886 and up to the end of March, 1932 to Sh. 2,213.

80. It appears that in 1932 many cases have been taken under (a) which might have been taken under (d).

As the by-laws do not appear to be harsh for honest law-abiding natives we have been at considerable pains to discover the reason for the large number of convictions.

The passes at present issued by the Municipality consist of the following:—

- (1) Ten-day passes for natives and unskilled workers, coloured red.
- (2) Twenty-one-day passes for skilled workers, coloured yellow.
- (3) One month passes for sellers of produce outside the commercial area, coloured yellow.
- (4) Six months passes for safari boys, coloured blue.

* While in general agreement with us as to the necessity for these by-laws, Mr. Jones expressed the opinion that the period of thirty-six hours specified in By-law 557 (2) (b) above is too short. We gave full consideration to this opinion, but are unable to agree with Mr. Jones, a visitor a day and a half or two nights and a day for the conduct of his legitimate business. If he finds the time allowed insufficient for his needs, he should apply for a pass under one of the categories enumerated in paragraph 80. It is not apparent that any relaxation of the thirty-six hours limit would be of any real benefit to native visitors, while any such relaxation would tend to increase the number of loiterers.

These passes with the exception of the last which are also issued by the Superintendent of the Locations, can only be obtained at the Municipal Native Affairs Office, and admittedly when a large number of natives are applying there may be some delay in their issue.

81. It appears that many natives neglect to provide themselves with the necessary passes simply because of the trouble and inconvenience entailed by the present lack of facilities for obtaining them.

We therefore recommend that when financial considerations permit clerks with authority to issue these passes be stationed on the main routes entering Nairobi.

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82. The majority of convictions under 557 (2) (a) are for sleeping on premises without the written consent of the owner or occupier. It appears to us that many owners and occupiers are ignorant of the existence of this by-law and also that many natives rather than run the risk of refusal prefer the risk of detection. As to this preference we can do nothing; but the ignorance of owners and occupiers can be removed, and we therefore recommend—

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That for the benefit of natives intending to visit Nairobi suitable opportunities be taken at bazaars and at district offices to publish information as to the regulations and warnings as to the consequences of disregarding them.

Recommendation 26

84. There is reason to believe that the situation will improve with the return to more normal economic conditions.

CHAPTER V.

CONCLUSION.

85. We do not suggest that we have covered all the ground or considered all the problems arising from the commission of crime or the existence of criminal tendencies or criminal classes in Nairobi and its neighbourhood. An exhaustive inquiry of such a nature would embrace the psychological effect on the native of the gradual abandonment of many of his tribal customs, the social aspects of various forms of detribalization, the moral consequences of a recently acquired desire for wealth among an increasing part of the population and many other subjects the investigation of which would be beyond the scope of this Committee and perhaps not strictly within our terms of reference. It would embrace also many aspects of the interrelationship of diverse races in their contact with each other in the sphere of economics and in fact might develop into an inquiry covering the entire social and economic structure of the Colony.

86. We have therefore confined our Report to the more obvious and urgent aspects of the problems.

We do not wish to appear to be alarmists as to the present or pessimists as to the future. Nairobi is not a sink of iniquity, a hotbed of vice or a playground of gangsters. We must, however, face the facts. Crime has shown a serious increase during the last year. We believe that the time has come for Government to take stock of the position and to formulate a policy for the future.

87. Of the three classes of potential criminals with which our Report is concerned—juveniles, habitual criminals, and vagrants—we believe that the problems presented by the first are the most important, because on the handling of these depends the extent to which the two other classes will provide any problems at all.

88. The present time seems to be opportune for measures to deal with habitual criminals. A professional class of criminals has come into existence but has not yet reached such proportions as should make it difficult to control. It is important that such a situation should not arise.

89. As we have stated above, conditions of financial depression tend to increase the difficulties of the problems of vagrancy and unemployment. Examples from elsewhere serve as solemn warnings of what may be expected from a shifting, thriftless, impoverished, landless and lawless native population, for ever drifting into towns and for ever being expelled from them, if such a population is allowed to come into existence.

We have the honour to be,

Your Excellency's most humble
and obedient servants,

A. DE V. WADE,
Chairman.

MARY M. SHAW

H. S. SCOTT

H. F. WARD

C. H. ADAMS

C. T. MACNAMARA

E. K. CATCHPOLE

J. M. SILVESTER

Secretary

31st May, 1932

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31st May, 1932

APPENDIX I.

EXTRACTS FROM THE EMPLOYMENT OF NATIVES
EMPLOYMENT BILL.Employment
of native
juveniles.

" 33. (1) No native juvenile shall seek employment unless he shall have obtained a certificate from a district officer which certificate shall be in the form prescribed in the Second Schedule, and shall, if such be the case, state that the permission of the father or guardian has been obtained.

(2) A native juvenile who shall have obtained such a certificate may, subject to the provisions of this Ordinance, enter into a contract of service.

(3) A district officer may withhold such certificate for any reason deemed by him to be sufficient :

Provided that—

- (a) when there is a parent or guardian of a native juvenile living and when such parent or guardian is unwilling to grant permission to such juvenile to seek employment the district commissioner shall withhold the certificate;
- (b) no native juvenile who appears to be below the age of ten years shall be allowed to contract for service;
- (c) nothing in this section shall apply to any native juvenile who is employed by the day only and who is accompanied throughout the duration of such employment by an adult relative."

Powers of
District
Officer.

" 34. A district officer of the district in which any native juvenile is employed or, seeking employment may exercise the following powers :—

- (1) He may terminate or cancel any contract of service which may have been entered into by a native juvenile on the grounds that the employer is an undesirable character, or that the nature of the employment is dangerous, or immoral, or injurious to the health of such native juvenile, or for any other reasonable cause.
- (2) On the application of a parent or guardian, or for any reason which may appear desirable or proper, he may order any native juvenile to return home, or restore him to the charge of such parent or guardian; and if such native juvenile be employed, he may cancel the contract of service entered into by him.

(3) The exercise of the powers conferred upon a district officer by this section shall be subject to review by the Chief Native Commissioner, whose decision shall be final."

" 35. Nothing in section 32 to 34 both inclusive contained shall be deemed to affect or apply to apprenticeship contracts not affected."

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Apprenticeship
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A Bill Relating to Children and Young Persons.

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

Short title.

1. This Ordinance may be cited as "the Juvenile Offenders Ordinance, 1932."

Interpretation.

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

"child" means a person under the age of fourteen years.

"young person" means a person who is fourteen years of age or upwards and under the age of thirty years.

"guardian" in relation to a child or young person includes any person who, in the opinion of the court having cognizance of any case in relation to the child or young person or in which the child or young person is concerned, has for the time being the charge of or control over the child or young person.

"probation officer" means a person appointed under this Ordinance by the Governor or by the court to be a probation officer.

Juvenile courts.

3. (1) A court when hearing charges against children or young persons shall, unless the child or young person is charged jointly with any other person not being a child or young person, sit either in a different building or room from that in which the ordinary sittings of the court are held, or on different days or at different times from those at which the ordinary sittings are held and a court so sitting is in this Ordinance referred to as a juvenile court.

(2) Where in the course of any proceedings in a juvenile court it appears to the court that the person charged or to whom the proceedings relate is of the age of sixteen years or upwards, or where in the course of any proceedings in any court other than a juvenile court it appears that the person charged or to whom the proceedings relate is under the age of sixteen years, nothing in this section shall be construed as preventing the court if it thinks it undesirable to adjourn the case, from proceeding with the hearing and determination of the case.

(3) Provision shall be made for preventing persons apparently under the age of sixteen years whilst being conveyed to or from court, or whilst waiting before or after their attendance in court, from association with adults charged with or convicted of any offence other than an offence with which the person apparently under the age of sixteen years is jointly charged or convicted.

(4) In a juvenile court no person other than the members and officers of the court and the parties to the case, their advocates, and other persons directly concerned in the case, shall, except by leave of the court, be allowed to attend:

Provided that bona fide representatives of a newspaper or news agency shall not be excluded, except by special order of the court:

Provided that no person shall publish the name, address, school, photograph, or anything likely to lead to the identification of the child or young person before the juvenile court, save with the permission of the court or in so far as required by the provisions of this Ordinance. Any person who acts in contravention of the provisions of this proviso shall be liable to a fine not exceeding fifty pounds.

4. Where a person apparently under the age of sixteen years is apprehended with or without warrant and cannot be brought forthwith before a court, the officer to whom such person is brought shall inquire into the case, and may in any case, and

Bail of children and young persons arrested

- (a) unless the charge is one of homicide or other grave crime; or
- (b) unless it is necessary in the interest of such person to remove him from the association with any undesirable person; or
- (c) unless the officer has reason to believe that the release of such person would defeat the ends of justice.

shall release such person on a recognizance, with or without sureties, for such amount as will, in the opinion of the officer, secure the attendance of such person upon the hearing of the charge, being entered into by him or by his parent or guardian, or other responsible person.

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Bail of children and young persons arrested

Custody of children and young persons not discharged on bail after arrest.

5. Where a person apparently under the age of sixteen years having been apprehended is not so released as aforesaid; the officer to whom such person is brought shall cause him to be detained in a place of detention provided under this Ordinance until he can be brought before a court, unless the officer certifies—

- (a) that it is impracticable to do so; or
- (b) that he is of so unruly or depraved a character that he cannot be safely so detained; or
- (c) that by reason of his state of health or of his mental or bodily condition it is inadvisable so to detain him;

and the certificate shall be produced to the court before which the person is brought.

Association with adults, during detention in police stations.

6. It shall be the duty of the Commissioner of Police to make arrangements for preventing, so far as practicable, a child or young person while being detained, from associating with an adult, other than a relative, charged with an offence.

Remand or committal to custody in place of detention.

7. (1) A court on remanding or committing for trial a child or young person who is not released on bail, shall, instead of committing him to prison, commit him to custody in a place of detention provided under this Ordinance and named in the commitment, to be there detained for the period for which he is remanded or until he is thence delivered in due course of law:

Provided that in the case of a young person it shall not be obligatory on the court so to commit him if the court certifies that he is of so unruly a character that he cannot be safely so committed, or that he is of so depraved a character that he is not a fit person to be so detained.

(2) A commitment under this section may be varied or, in the case of a young person who proves to be of so unruly a character that he cannot be safely detained in such custody or to be of so depraved a character that he is not a fit person to be so detained, revoked by any court acting in or for the place in or for which the court which made the order acted, and if it is revoked the young person may be committed to prison.

8. (a) Where a child or young person is brought before a juvenile court for any offence it shall be the duty of the court as soon as possible to explain to him in simple language the substance of the alleged offence.

Procedure in juvenile court.

(b) Where a child is brought before a juvenile court for any offence other than homicide the case shall be finally disposed of in such court, and it shall not be necessary to ask the parent whether he consents that the child shall be dealt with in the juvenile court.

(c) Where a young person is brought before a juvenile court for an offence triable by the Supreme Court other than homicide and the court becomes satisfied at any time during the hearing of the case that it is expedient to deal with it summarily, the court shall put to the young person the following or a similar question, telling him that he may consult his parent or guardian before replying—

“Do you wish to be tried by this court or by the Supreme Court?”

and the court shall explain to the young person and to his parent or guardian the meaning of being so tried and the place where the trial would be held.

(d) After explaining the substance of the alleged offence the court shall ask the child or the young person (except in cases where the young person does not wish to be tried in the juvenile court) whether he admits the offence.

(e) If the child or young person does not admit the offence the court shall then hear the evidence of the witnesses in support thereof. At the close of the evidence in chief of each such witness the magistrate shall ask the child or young person, or, if he see fit, the child's parent or guardian, whether he wishes to put any questions to the witness.

If the child or young person instead of asking questions wishes to make a statement he shall be allowed to do so. It shall be the duty of the court to put to the witnesses such questions as appear to be necessary. The court may put to the child or young person such questions as may be necessary to explain anything in the statement of the child or young person.

(f) If it appears to the court that a prima facie case is made out, the evidence of any witnesses for the defence shall be heard, and the child or young person shall be allowed to give evidence or to make any statement.

Custody of children and young persons not discharged on bail after arrest.

5. Where a person apparently under the age of sixteen years having been apprehended is not so released as aforesaid; the officer to whom such person is brought shall cause him to be detained in a place of detention provided under this Ordinance until he can be brought before a court, unless the officer certifies—

- (a) that it is impracticable to do so; or
- (b) that he is of so unruly or depraved a character that he cannot be safely so detained; or
- (c) that by reason of his state of health or of his mental or bodily condition it is inadvisable so to detain him;

and the certificate shall be produced to the court before which the person is brought.

Association with adults, during detention in police stations.

6. It shall be the duty of the Commissioner of Police to make arrangements for preventing, so far as practicable, a child or young person while being detained, from associating with an adult, other than a relative, charged with an offence.

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Provided that in the case of a young person it shall not be obligatory on the court so to commit him if the court certifies that he is of so unruly a character that he cannot be safely so committed, or that he is of so depraved a character that he is not a fit person to be so detained.

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(b) Where a child is brought before a juvenile court for any offence other than homicide the case shall be finally disposed of in such court, and it shall not be necessary to deal with the parent whether he consents that the child shall be dealt with in the juvenile court.

(c) Where a young person is brought before a juvenile court for an offence triable by the Supreme Court other than homicide and the court becomes satisfied at any time during the hearing of the case that it is expedient to deal with it summarily, the court shall put to the young person the following or a similar question, telling him that he may consult his parent or guardian before replying—

“Do you wish to be tried by this court or by the Supreme Court?”

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(d) After explaining the substance of the alleged offence the court shall ask the child or the young person (except in cases where the young person does not wish to be tried in the juvenile court) whether he admits the offence.

(e) If the child or young person does not admit the offence the court shall then hear the evidence of the witnesses in support thereof. At the close of the evidence in chief of each such witness the magistrate shall ask the child or young person, or, if he see fit, the child's parent or guardian, whether he wishes to put any questions to the witness.

If the child or young person instead of asking questions wishes to make a statement he shall be allowed to do so. It shall be the duty of the court to put to the witnesses such questions as appear to be necessary. The court may put to the child or young person such questions as may be necessary to explain anything in the statement of the child or young person.

(f) If it appears to the court that a prima facie case is made out, the evidence of any witnesses for the defence shall be heard, and the child or young person shall be allowed to give evidence or to make any statement.

(g) If the child or young person admits the offence or the court is satisfied that it is proved, he shall then be asked if he desires to say anything in extenuation or mitigation of the penalty or otherwise. Before deciding how to deal with him the court shall obtain such information as to his general conduct, home surroundings, school record, and medical history, as may enable it to deal with the case in the best interests of the child or young person, and may put to him any question arising out of such information. For the purpose of obtaining such information or for special medical examination or observation the court may from time to time remand the child or young person on bail or to a place of detention.

(h) If the child or young person admits the offence or the court is satisfied that it is proved, and the court decides that a remand is necessary for purposes of enquiry or observation, the court may cause an entry to be made in the court register that the charge is proved and that the child or young person has been remanded. The court before which a child or young person so remanded is brought may without further proof of the commission of the offence make any order in respect of the child or young person which could have been made by the court which so remanded the child or young person.

Probation officers.

9. (1) The Governor may by notice in the Gazette appoint a fit and proper person or persons of either sex and either by name or as holding any public office for the time being to be a probation officer or officers for any area, and may from time to time appoint a deputy probation officer for such area to act in the absence or during the illness or incapacity of the probation officer, and may appoint an assistant probation officer to perform under the direction of the probation officer all or any of the duties of a probation officer in any portion of such area.

A probation officer when acting under a probation order shall be subject to the control of the courts for the area for which he is appointed.

Probation orders.

(2) Where a child or young person is charged with any offence other than homicide and the court is satisfied that the charge is proved, the court may make an order discharging the offender conditionally on his entering into a recognizance, with or without sureties, to be of good behaviour and to appear for sentence when called upon at any time during such period,

not exceeding three years, as may be specified in the order. A recognizance entered into under this section shall, if the court so order, contain a condition that the offender be under the supervision of such person as may be named in the order during the period specified in the order and such other conditions for securing such supervision as may be specified in the order, and an order requiring the insertion of such conditions as aforesaid in the recognizance is in this Ordinance referred to as a probation order.

(3) The person named in any probation order shall be— Who to be named as probation officer.

- (a) a probation officer appointed by the Governor for the area in or for which the court acts, or
- (b) if the court considers it expedient on account of the place of residence of the offender, or for any other special reason, a probation officer appointed by the Governor for some other area, or
- (c) if the court considers that the special circumstances of the case render it desirable, or if no person has been appointed as a probation officer, a person who has not been appointed a probation officer for any area.

(4) The person named in a probation order may at any time be relieved of his duties, and, in any such case or in case of the death of the person so named, another person may be substituted by the court before which the offender is bound by his recognizance to appear for conviction or sentence.

(5) It shall be the duty of a probation officer, subject to the directions of the court— Duties of probation officers.

- (a) to visit or receive reports from the person under supervision at such reasonable intervals as may be specified in the probation order or, subject thereto, as the probation officer may think fit;
- (b) to see that he observes the conditions of his recognizance;
- (c) to report to the court as to his behaviour;
- (d) to advise, assist, and befriend him, and, when necessary, to endeavour to find him suitable employment.

(g) If the child or young person admits the offence or the court is satisfied that it is proved, he shall then be asked if he desires to say anything in extenuation or mitigation of the penalty or otherwise. Before deciding how to deal with him the court shall obtain such information as to his general conduct, home surroundings, school record, and medical history, as may enable it to deal with the case in the best interests of the child or young person, and may put to him any question arising out of such information. For the purpose of obtaining such information or for special medical examination or observation the court may from time to time remand the child or young person on bail or to a place of detention.

(h) If the child or young person admits the offence or the court is satisfied that it is proved, and the court decides that a remand is necessary for purposes of enquiry or observation, the court may cause an entry to be made in the court register that the charge is proved and that the child or young person has been remanded. The court before which a child or young person so remanded is brought may without further proof of the commission of the offence make any order in respect of the child or young person which could have been made by the court which so remanded the child or young person.

Probation officers.

9. (1) The Governor may by notice in the Gazette appoint a fit and proper person or persons of either sex and either by name or as holding any public office for the time being to be a probation officer or officers for any area, and may from time to time appoint a deputy probation officer for such area to act in the absence or during the illness or incapacity of the probation officer, and may appoint an assistant probation officer to perform under the direction of the probation officer all or any of the duties of a probation officer in any portion of such area.

A probation officer when acting under a probation order shall be subject to the control of the courts for the area for which he is appointed.

Probation orders.

(2) Where a child or young person is charged with any offence other than homicide and the court is satisfied that the charge is proved, the court may make an order discharging the offender conditionally on his entering into a recognizance, with or without sureties, to be of good behaviour and to appear for sentence when called upon at any time during such period,

not exceeding three years, as may be specified in the order. A recognizance entered into under this section shall, if the court so order, contain a condition that the offender be under the supervision of such person as may be named in the order during the period specified in the order and such other conditions for securing such supervision as may be specified in the order, and an order requiring the insertion of such conditions as aforesaid in the recognizance is in this Ordinance referred to as a probation order.

(3) The person named in any probation order shall be— Who to be named as probation officer.

(a) a probation officer appointed by the Governor for the area in or for which the court acts, or

(b) if the court considers it expedient on account of the place of residence of the offender, or for any other special reason, a probation officer appointed by the Governor for some other area, or

(c) if the court considers that the special circumstances of the case render it desirable, or if no person has been appointed as a probation officer, a person who has not been appointed a probation officer for any area.

(4) The person named in a probation order may at any time be relieved of his duties, and, in any such case or in case of the death of the person so named, another person may be substituted by the court before which the offender is bound by his recognizance to appear for conviction or sentence.

(5) It shall be the duty of a probation officer, subject to the directions of the court— Duties of probation officers.

(a) to visit or receive reports from the person under supervision at such reasonable intervals as may be specified in the probation order or, subject thereto, as the probation officer may think fit;

(b) to see that he observes the conditions of his recognizance;

(c) to report to the court as to his behaviour;

(d) to advise, assist, and befriend him, and, when necessary, to endeavour to find him suitable employment.

Power to vary conditions of release.

(6) The court before which any person is bound by his recognizance under this Ordinance to appear for conviction or sentence may, upon the application of the probation officer, and after notice to the offender, vary the conditions of the recognizance and may, on being satisfied that the conduct of that person has been such as to make it unnecessary that he should remain longer under supervision, discharge the recognizance.

Provision in case of offender failing to observe conditions of release.

(7) (a) If the court before which an offender is bound by his recognizance to appear for conviction or sentence, or any court, is satisfied by information on oath that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension, or may, if it thinks fit, instead of issuing a warrant in the first instance, issue a summons to the offender and his sureties (if any) requiring him or them to attend at such court and at such time as may be specified in the summons.

(b) The offender, when apprehended, shall, if not brought forthwith before the court before which he is bound by his recognizance to appear for conviction or sentence, be brought before a court.

(c) The court before which an offender on apprehension is brought, or before which he appears in pursuance of such summons as aforesaid, may, if it is not the court before which he is bound by his recognizance to appear for conviction or sentence, remand him to custody or on bail until he can be brought before the last-mentioned court.

(d) A court, before which a person is bound by his recognizance to appear for conviction and sentence, on being satisfied that he has failed to observe any condition of his recognizance, may forthwith, without any further proof of his guilt, deal with him as for the original offence.

(8) Where an order under this section is made by a court the order shall, for the purpose of revesting or restoring stolen property and of enabling the court to make orders as to the restitution or delivery of property to the owner and as to the payment of money upon or in connexion with such restitution or delivery, have the like effect as a conviction.

10. Where a child or young person is charged with any offence, the court may in its discretion require the attendance of his parent or guardian and may make such orders as are necessary for the purpose.

Attendance at court of parent of child or young person charged with an offence, &c.

11. (1) Where a child or young person is charged before any court with any offence for the commission of which a fine, damages or costs may be imposed, and the court is of opinion that the case would be best met by the imposition of a fine, damages, or costs, whether with or without any other punishment, the court may in any case, and shall if the offender is a child, order that the fine, damages, or costs awarded be paid by the parent or guardian of the child or young person instead of by the child or young person; unless the court is satisfied that the parent or guardian cannot be found or that he has not conduced to the commission of the offence by neglecting to exercise due care of the child or young person.

Power to order parent to pay fine, &c., instead of child or young person

(2) Where a child or young person is charged with any offence, the court may order his parent or guardian to give security for his good behaviour.

(3) Where a court thinks that a charge against a child or young person is proved, the court may make an order on the parent or guardian under this section for the payment of damages or costs or requiring him to give security for good behaviour, without proceeding to the conviction of the child or young person.

(4) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so, but, save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(5) Any sums imposed and ordered to be paid by a parent or guardian under this section, or on forfeiture of any such security as aforesaid, may be recovered from him by distress or imprisonment in like manner as if the order had been made on the conviction of the parent or guardian of the offence with which the child or young person was charged.

(6) A parent or guardian may appeal against an order under this section to the Supreme Court.

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Power to vary conditions of release.

(6) The court before which any person is bound by his recognizance under this Ordinance to appear for conviction or sentence may, upon the application of the probation officer, and after notice to the offender, vary the conditions of the recognizance and may, on being satisfied that the conduct of that person has been such as to make it unnecessary that he should remain longer under supervision, discharge the recognizance.

Provision in case of offender failing to observe conditions of release.

(7) (a) If the court before which an offender is bound by his recognizance to appear for conviction or sentence, or any court, is satisfied by information on oath that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension, or may, if it thinks fit, instead of issuing a warrant in the first instance, issue a summons to the offender and his sureties (if any) requiring him or them to attend at such court and at such time as may be specified in the summons.

(b) The offender, when apprehended, shall, if not brought forthwith before the court before which he is bound by his recognizance to appear for conviction or sentence, be brought before a court.

(c) The court before which an offender on apprehension is brought, or before which he appears in pursuance of such summons as aforesaid, may, if it is not the court before which he is bound by his recognizance to appear for conviction or sentence, remand him to custody or on bail until he can be brought before the last-mentioned court.

(d) A court, before which a person is bound by his recognizance to appear for conviction and sentence, on being satisfied that he has failed to observe any condition of his recognizance, may forthwith, without any further proof of his guilt, deal with him as for the original offence.

(8) Where an order under this section is made by a court the order shall, for the purpose of vesting or restoring stolen property and of enabling the court to make orders as to the restitution or delivery of property to the owner and as to the payment of money upon or in connexion with such restitution or delivery, have the like effect as a conviction.

10. Where a child or young person is charged with any offence, the court may in its discretion require the attendance of his parent or guardian and may make such orders as are necessary for the purpose.

Attendance at court of parent of child or young person charged with an offence, &c.

11. (1) Where a child or young person is charged before any court with any offence for the commission of which a fine, damages or costs may be imposed, and the court is of opinion that the case would be best met by the imposition of a fine, damages, or costs, whether with or without any other punishment, the court may in any case, and shall if the offender is a child, order that the fine, damages, or costs awarded be paid by the parent or guardian of the child or young person instead of by the child or young person, unless the court is satisfied that the parent or guardian cannot be found or that he has not conducted to the commission of the offence by neglecting to exercise due care of the child or young person.

Power to order parent to pay fine, &c., instead of child or young person

(2) Where a child or young person is charged with any offence, the court may order his parent or guardian to give security for his good behaviour.

(3) Where a court thinks that a charge against a child or young person is proved, the court may make an order on the parent or guardian under this section for the payment of damages or costs or requiring him to give security for good behaviour, without proceeding to the conviction of the child or young person.

(4) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so, but, save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(5) Any sums imposed and ordered to be paid by a parent or guardian under this section, or on forfeiture of any such security as aforesaid, may be recovered from him by distress or imprisonment in like manner as if the order had been made on the conviction of the parent or guardian of the offence with which the child or young person was charged.

(6) A parent or guardian may appeal against an order under this section to the Supreme Court.

Restri-
tions on
punishment
of children
and young
persons.

12. (1) No child shall be sentenced to imprisonment.

(2) No young person shall be sentenced to imprisonment if he can be suitably dealt with in any other way whether by probation, fine, corporal punishment, committal to a place of detention, reformatory or industrial school, or otherwise.

(3) A young person sentenced to imprisonment shall not be allowed to associate with adult prisoners.

Detention
in the case
of certain
crimes
committed
by children
or young
persons.

13. Notwithstanding anything in this Ordinance to the contrary, where a child or young person is convicted of an attempt to murder, or of manslaughter, or of wounding with intent to do grievous bodily harm, the court may sentence the offender to be detained for such period as may be specified in the sentence; and where such a sentence is passed the child or young person shall, during that period, notwithstanding anything in the other provisions of this Ordinance, be liable to be detained in such place and on such conditions as the Governor may direct, and whilst so detained shall be deemed to be in legal custody.

Committing
child or
young
person to
place of
detention.

14. Where a child or young person is convicted of an offence punishable, in the case of an adult, with imprisonment, or would, if he were an adult, be liable to be imprisoned in default of payment of any fine, damage, or costs, and the court considers that none of the other methods in which the case may legally be dealt with is suitable, the court may order that he be committed to custody in a place of detention for a period not exceeding six months.

Children
liable to be
committed
in care of
relative, &c.

15. (1) Any person may bring before a juvenile court any person apparently under the age of fourteen years who—

- (a) is found begging or receiving alms (whether or not there is any pretence of singing, playing, performing, offering anything for sale, or otherwise), or being in any street, premises, or place for the purpose of so begging or receiving alms; or
- (b) is found wandering and not having any home or settled place of abode, or visible means of subsistence, or is found wandering and having no parent or guardian, or a parent or guardian who does not exercise proper guardianship; or

(c) is found destitute, not being an orphan and having both parents or his surviving parent, or in the case of an illegitimate child his mother, undergoing imprisonment; or

(d) is under the care of a parent or guardian who, by reason of criminal or drunken habits, is unfit to have the care of the child; or

(e) is the daughter, whether legitimate or illegitimate, of a father who has been convicted of an offence under section 148 of the Penal Code in respect of No. 10 of 1960. any of his daughters, whether legitimate or illegitimate; or

(f) frequents the company of any reputed thief, or common or reputed prostitute; or

(g) is being persistently ill-treated or neglected by his parent; or

(h) is lodging or residing in a house or the part of a house used by any prostitute for the purpose of prostitution, or is otherwise living in circumstances calculated to cause, encourage, or favour the seduction or prostitution of the child,

and the court before which a person is brought as coming within one of those descriptions, if satisfied on enquiry of that fact, may order the child to be taken out of the custody, charge, or care of any person, and to be committed to the care of a relative of the child or some other fit person or institution named by the court (such relative or other person or institution being willing to undertake such care), until the child attains the age of eighteen years, or for any shorter period, and may in addition to such order make an order that the child be placed under the supervision of a probation officer, and the court may of its own motion, or on the application of any person, from time to time, by order renew, vary, or revoke any such order:

Provided that the court may at any time on the application of the person or institution to whose care any female child is committed under this section, and with the consent of such child, extend the period for which she was so committed until she attains the age of twenty-one years:

Power to
extend period
of custody in
case of female
child.

Restri-
tions on
punishment
of children
and young
persons.

12. (1) No child shall be sentenced to imprisonment.

(2) No young person shall be sentenced to imprisonment if he can be suitably dealt with in any other way whether by probation, fine, corporal punishment, committal to a place of detention, reformatory or industrial school, or otherwise.

(3) A young person sentenced to imprisonment shall not be allowed to associate with adult prisoners.

Detention
in the case
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Committing
child or
young
person to
place of
detention.

14. Where a child or young person is convicted of an offence punishable, in the case of an adult, with imprisonment, or would, if he were an adult, be liable to be imprisoned in default of payment of any fine, damage, or costs, and the court considers that none of the other methods in which the case may legally be dealt with is suitable, the court may order that he be committed to custody in a place of detention for a period not exceeding six months.

Children
liable to be
committed
to care of
relative &c.

15. (1) Any person may bring before a juvenile court any person apparently under the age of fourteen years who—

- (a) is found begging or receiving alms (whether or not there is any pretence of singing, playing, performing, offering anything for sale, or otherwise), or being in any street, premises, or place for the purpose of so begging or receiving alms; or
- (b) is found wandering and not having any home or settled place of abode, or visible means of subsistence, or is found wandering and having no parent or guardian, or a parent or guardian who does not exercise proper guardianship; or

(c) is found destitute, not being an orphan and having both parents or his surviving parent, or in the case of an illegitimate child his mother, undergoing imprisonment; or

(d) is under the care of a parent or guardian who, by reason of criminal or drunken habits, is unfit to have the care of the child; or

(e) is the daughter, whether legitimate or illegitimate, of a father who has been convicted of an offence under section 148 of the Penal Code in respect of No. 10 of 1980. any of his daughters, whether legitimate or illegitimate; or

(f) frequents the company of any reputed thief, or common or reputed prostitute; or

(g) is being persistently ill-treated or neglected by his parent; or

(h) is lodging or residing in a house or the part of a house used by any prostitute for the purpose of prostitution, or is otherwise living in circumstances calculated to cause, encourage, or favour the seduction or prostitution of the child,

and the court before which a person is brought as coming within one of those descriptions, if satisfied on enquiry of that fact, may order the child to be taken out of the custody, charge, or care of any person, and to be committed to the care of a relative of the child or some other fit person or institution named by the court (such relative or other person or institution being willing to undertake such care), until the child attains the age of eighteen years, or for any shorter period, and may in addition to such order make an order that the child be placed under the supervision of a probation officer, and the court may of its own motion, or on the application of any person, from time to time, by order renew, vary, or revoke any such order:

Provided that the court may at any time on the application of the person or institution to whose care any female child is committed under this section, and with the consent of such child, extend the period for which she was so committed until she attains the age of twenty-one years:

Power to
extend period
of custody in
case of female
child.

Provided further that a child shall not be treated as coming within the description contained in paragraph (f) if the only common or reputed prostitute whose company the child frequents is the mother of the child, and she exercises proper guardianship and due care to protect the child from contamination.

(2) Every order made under this section shall be in writing, and any such order may be made by the court in the absence of the child; and the consent of any person or institution to undertake the care of the child in pursuance of any such order shall be proved in such manner as the court may think sufficient to bind that person or institution.

(3) (i) Any person or institution to whose care a child is committed under this section shall, whilst the order is in force, have the like control over him as the parent, and shall be responsible for his maintenance, and he shall continue in the care of such person or institution, notwithstanding that he is claimed by his parent or any other person, and if any person—

- (a) knowingly assists or induces, directly or indirectly, a person in respect of whom an order has been made under this section to escape from the person or institution to whose care he is so committed; or
- (b) knowingly harbours, conceals, or prevents from returning to such person or institution, a person in respect of whom an order has been made under this section who has so escaped, or knowingly assists in so doing;

he shall be liable to a fine not exceeding fifty pounds, or to imprisonment for a term not exceeding three months.

(ii) Any court having power so to commit a child shall have power to make orders on the parent or other person liable to maintain the child to contribute to his maintenance during such period as aforesaid such sums as the court shall think fit, and may from time to time vary such orders.

(iii) Any such order may be made on the complaint or application of the person or institution to whose care the child is for the time being committed, and either at the time when the order for the committal of the child to his care is made, or subsequently, and the sums contributed by the parent or

such other person shall be paid to such person or institution as the court may name, and be applied for the maintenance of the child.

(iv) Where any parent or other person has been ordered under this section to contribute to the maintenance of a child, he shall give notice of any change of address to the Commissioner of Police, and if he fails to do so without reasonable excuse, he shall be liable to a fine not exceeding twenty pounds.

(4) The Governor may at any time in his discretion discharge a child or young person from the care of any person or institution to whose care he is committed in pursuance of this section, either absolutely or on such conditions as the Governor approves, and may, if he thinks fit, make rules in relation to children so committed to the care of any person or institution, and to the duties of and remuneration of such persons or institutions with respect to such children.

16. The Governor, in any case where it appears to him to be for the benefit of a child or young person who has been committed to the care of any person or institution in pursuance of section 15, may empower such person to procure the emigration of the child or young person, but, except with such authority, no person to whose care a child is so committed shall procure or allow his emigration.

17. Where a child or young person charged with any offence is tried by any court, and the court is satisfied of his guilt, the court shall take into consideration the manner in which, under the provisions of this or any other Ordinance or otherwise enabling the court to deal with the case, the case should be dealt with, namely, whether—

- (a) by dismissing the charge; or
- (b) by discharging the offender on his entering into a recognizance; or
- (c) by so discharging the offender and placing him under the supervision of a probation officer; or
- (d) by committing the offender to the care of a relative or other fit person; or
- (e) by sending the offender to an industrial school; or

Emigration

Methods of dealing with children and young persons charged with offences.

Provided further that a child shall not be treated as coming within the description contained in paragraph (f) if the only common or reputed prostitute whose company the child frequents is the mother of the child, and she exercises proper guardianship and due care to protect the child from contamination.

(2) Every order made under this section shall be in writing, and any such order may be made by the court in the absence of the child; and the consent of any person or institution to undertake the care of the child in pursuance of any such order shall be proved in such manner as the court may think sufficient to bind that person or institution.

(3) (i) Any person or institution to whose care a child is committed under this section shall, whilst the order is in force, have the like control over him as the parent, and shall be responsible for his maintenance, and he shall continue in the care of such person or institution, notwithstanding that he is claimed by his parent or any other person, and if any person—

- (a) knowingly assists or induces, directly or indirectly, a person in respect of whom an order has been made under this section to escape from the person or institution to whose care he is so committed; or
- (b) knowingly harbours, conceals, or prevents from returning to such person or institution, a person in respect of whom an order has been made under this section who has so escaped, or knowingly assists in so doing;

he shall be liable to a fine not exceeding fifty pounds, or to imprisonment for a term not exceeding three months.

(ii) Any court having power so to commit a child shall have power to make orders on the parent or other person liable to maintain the child to contribute to his maintenance during such period as aforesaid such sums as the court shall think fit, and may from time to time vary such orders.

(iii) Any such order may be made on the complaint or application of the person or institution to whose care the child is for the time being committed, and either at the time when the order for the committal of the child to his care is made, or subsequently, and the sums contributed by the parent or

such other person shall be paid to such person or institution as the court may name, and be applied for the maintenance of the child.

(iv) Where any parent or other person has been ordered under this section to contribute to the maintenance of a child, he shall give notice of any change of address to the Commissioner of Police, and if he fails to do so without reasonable excuse, he shall be liable to a fine not exceeding twenty pounds.

(4) The Governor may at any time in his discretion discharge a child or young person from the care of any person or institution to whose care he is committed in pursuance of this section, either absolutely or on such conditions as the Governor approves, and may, if he thinks fit, make rules in relation to children so committed to the care of any person or institution, and to the duties of and remuneration of such persons or institutions with respect to such children.

16. The Governor, in any case where it appears to him to be for the benefit of a child or young person who has been committed to the care of any person or institution in pursuance of section 15, may empower such person to procure the emigration of the child or young person, but, except with such authority, no person to whose care a child is so committed shall procure or allow his emigration.

Emigration

17. Where a child or young person charged with any offence is tried by any court, and the court is satisfied of his guilt, the court shall take into consideration the manner in which, under the provisions of this or any other Ordinance or otherwise enabling the court to deal with the case, the case should be dealt with, namely, whether—

Methods of dealing with children and young persons charged with offences.

- (a) by dismissing the charge; or
- (b) by discharging the offender on his entering into a recognizance; or
- (c) by so discharging the offender and placing him under the supervision of a probation officer; or
- (d) by committing the offender to the care of a relative or other fit person; or
- (e) by sending the offender to an industrial school; or

- (f) by sending the offender to a reformatory school; or
- (g) by ordering the offender to be whipped; or
- (h) by ordering the offender to pay a fine, damages, or costs; or
- (i) by ordering the parent or guardian of the offender to pay a fine, damages, or costs; or
- (j) by ordering the parent or guardian of the offender to give security for his good behaviour; or
- (k) by committing the offender to custody in a place of detention provided under this Ordinance; or
- (l) where the offender is a young person, by sentencing him to imprisonment; or
- (m) by dealing with the case in any other manner in which it may be legally dealt with:

Provided that nothing in this section shall be construed as authorizing the court to deal with any case in any manner in which it could not deal with the case apart from this section.

Provision of places of detention.

18. (1) It shall be the duty of the Commissioner of Police to provide such places of detention for each district as may be required for the purposes of this Ordinance, but nothing shall prevent the same place of detention being provided for two or more districts.

(2) If more than one place of detention is provided for in any district the Commissioner of Police may determine that any such place shall be used for some only of the purposes for which places of detention are required to be provided and another place for the other purposes.

(3) It shall be lawful for the authority or persons responsible for the management of any institution other than a prison whether supported out of public funds or by voluntary contributions, but subject in the case of an institution supported out of public funds to the consent of the Governor, to agree with the Commissioner of Police for the use of the institution or any part thereof as a place of detention on

such terms as may be agreed upon between them and the Commissioner of Police.

(4) In selecting the place of detention to which a child or young person is to be committed the court or officer of police shall have regard, where practicable, to the religious persuasion of the child or young person.

19. (1) The order or judgment in pursuance of which a child or young person is committed to custody in a place of detention provided under this Ordinance shall be delivered with the child or young person to the person in charge of the place of detention and shall be a sufficient authority for his detention in that place in accordance with the tenor thereof.

Provisions as to custody of children and young persons in places of detention.

(2) A child or young person whilst so detained and whilst being conveyed to and from the place of detention shall be deemed to be in legal custody and if he escapes may be apprehended without warrant and brought back to the place of detention in which he was detained.

(3) The Governor shall cause places of detention provided under this Ordinance to be inspected, and may make rules as to the places to be used as places of detention, and as to their inspection, and as to the classification, treatment, employment, and control of children and young persons detained in custody in a place of detention provided under this Ordinance, and for the children and young persons whilst so detained being visited from time to time by persons appointed in accordance with those rules.

20. The expenses incurred by the Commissioner of Police in respect of any place of detention provided by the authority, including the expenses of the maintenance of any child or young person detained therein, whether detained or apprehension or committed to custody on remand or commitment for trial or in lieu of imprisonment or in default of payment of a fine, damages, or costs, shall be defrayed out of moneys voted for the purpose by the Legislative Council.

Expenses of maintenance of child or young person.

21. Where a person, whether charged with an offence or not, is brought before any court otherwise than for the purpose of giving evidence, and it appears to the court that

Presumption and determination of age.

- (f) by sending the offender to a reformatory school; or
- (g) by ordering the offender to be whipped; or
- (h) by ordering the offender to pay a fine, damages, or costs; or
- (i) by ordering the parent or guardian of the offender to pay a fine, damages, or costs; or
- (j) by ordering the parent or guardian of the offender to give security for his good behaviour; or
- (k) by committing the offender to custody in a place of detention provided under this Ordinance; or
- (l) where the offender is a young person, by sentencing him to imprisonment; or
- (m) by dealing with the case in any other manner in which it may be legally dealt with:

Provided that nothing in this section shall be construed as authorizing the court to deal with any case in any manner in which it could not deal with the case apart from this section.

Provision
of places of
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18. (1) It shall be the duty of the Commissioner of Police to provide such places of detention for each district as may be required for the purposes of this Ordinance, but nothing shall prevent the same place of detention being provided for two or more districts.

(2) If more than one place of detention is provided for in any district the Commissioner of Police may determine that any such place shall be used for some only of the purposes for which places of detention are required to be provided and another place for the other purposes.

(3) It shall be lawful for the authority or persons responsible for the management of any institution other than a prison whether supported out of public funds or by voluntary contributions, but subject in the case of an institution supported out of public funds to the consent of the Governor, to agree with the Commissioner of Police for the use of the institution or any part thereof as a place of detention on

such terms as may be agreed upon between them and the Commissioner of Police.

(4) In selecting the place of detention to which a child or young person is to be committed the court or officer of police shall have regard, where practicable, to the religious persuasion of the child or young person.

19. (1) The order or judgment in pursuance of which a child or young person is committed to custody in a place of detention provided under this Ordinance shall be delivered with the child or young person to the person in charge of the place of detention and shall be a sufficient authority for his detention in that place in accordance with the tenor thereof.

Provisions
as to
custody of
children
and young
persons in
places of
detention.

(2) A child or young person whilst so detained and whilst being conveyed to and from the place of detention shall be deemed to be in legal custody and if he escapes may be apprehended without warrant and brought back to the place of detention in which he was detained.

(3) The Governor shall cause places of detention provided under this Ordinance to be inspected, and may make rules as to the places to be used as places of detention, and as to their inspection, and as to the classification, treatment, employment, and control of children and young persons detained in custody in a place of detention provided under this Ordinance, and for the children and young persons whilst so detained being visited from time to time by persons appointed in accordance with those rules.

20. The expenses incurred by the Commissioner of Police in respect of any place of detention provided by the authority, including the expenses of the maintenance of any child or young person detained therein, whether detained by apprehension or committed to custody on remand or commitment for trial or in lieu of imprisonment or in default of payment of a fine, damages, or costs, shall be defrayed out of moneys voted for the purpose by the Legislative Council.

expenses of
maintenance
of child or
young person.

21. Where a person, whether charged with an offence or not, is brought before any court otherwise than for the purpose of giving evidence, and it appears to the court that

Presumption
and determina-
tion of age.

he is a child or young person, the court shall make due enquiry as to the age of that person, and for that purpose shall take such evidence as may be forthcoming at the hearing of the case, but an order or judgment of the court shall not be invalidated by any subsequent proof that the age of that person has not been correctly stated to the court, and the age presumed or declared by the court to be the age of the person so brought before it shall, for the purposes of this Ordinance, be deemed to be the true age of that person, and, where it appears to the court that the person so brought before it is of the age of sixteen years or upwards, that person shall for the purposes of this Ordinance be deemed not to be a child or young person.

Power to
make rules.

22. The Governor in Council may make rules for carrying this Ordinance into effect, and in particular for prescribing such matters incidental to the appointment, resignation, and removal of probation officers, and the performance of their duties, the reports to be made by them, and the payment of their remuneration or out-of-pocket expenses, as may appear to be necessary.

Saving.

23. Save in so far as other provision is expressly made in this Ordinance, nothing in this Ordinance shall be deemed to affect any other law relating to children or young persons.

24. (1) The provisions of sections 18, 19 and 20 of this Ordinance shall not come into force until the Governor by proclamation has declared that the provisions of the said sections shall as from a date to be specified in the said proclamation be in force either in the whole Colony or in any area or areas in the Colony.

(2) Until the issue of such proclamation as aforesaid the provisions of sections 6, 7, 8, 12, 14 and 17 of this Ordinance shall be read as if reference therein to a place of detention provided under this Ordinance, a place of detention, an industrial school or a reformatory school, as the case may be, were reference to a detention camp established under the Detention Camps Ordinance, 1925.

COMPARATIVE TABLE.

1. Short title.
2. Definition.
"child" "young person" "guardian" defined by the Children Act, 1908, s.131.
3. Children Act, s.111, amended.
Second proviso is new.
4. Children Act, s.94, amended.
5. Ditto s.95, amended.
6. Ditto s.96, amended.
7. Ditto s.97, amended.
8. New.
9. (1) Derived from the Probation of Offenders Act, 1907, S.3 (1).
(2) Ditto s.1 (3).
(3) Ditto s.3 (3).
(4) Ditto s.3 (6).
(5) Ditto s.4.
(6) Ditto s.5.
(7) Ditto s.6.
(8) Ditto s.1 (4).
10. Children Act, s.98 (1), amended.
11. Ditto s.99.
12. Ditto compare s.102.
13. Ditto s.104.
14. Ditto s.106, amended.
15. (1) Ditto S.58 (1), S.21 (1), and S.60.
First proviso is derived from S.10 of the Custody of Children Ordinance, 1926.
(2) Ditto S.21 (3).
(3) (i) Ditto S.23 (1).
(ii) Ditto S.22 (2).
(iii) Ditto S.22 (3).
(iv) Ditto S.75 (6).
(4) Ditto S.21 (5).
16. The Custody of Children Ordinance, 1926. s.12
17. Children Act, S.107.
18. Ditto S.108 (1) (2) (4) (6).
19. Ditto S.109.
20. Ditto S.110 (1).
21. Ditto S.123 (1).
22. Probation of Offenders Act, 1907. S.7.
23. New Provision.
24. Repeal.

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OBJECTS AND REASONS.

The Bill has been prepared at the desire of the Secretary of State to give effect to the recommendations of a Committee appointed by him last year " to consider what special arrangements are in force in Dependencies under the control of the Colonial Office in connexion with the trial and punishment of young offenders and to make recommendations ".

The draft Bill is based on the English Children Act, 1908, the Probation of Young Offenders Act, 1907, and the Home Office Report of the Departmental Committee on the treatment of Young Offenders.

In view of the present financial position provision is made in clause 24 of the Bill for suspending those provisions of the Bill which entail expenditure on buildings and staff.

Probation officers will for the present not be appointed unless they are prepared to give their services without cost to Government.

Until clauses 18, 19 and 20 are given effect to no expenditure from Government funds will be entailed.

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GOVERNMENT NOTICE No. 565.

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

H. E. BADER,

Acting Clerk of the Legislative Council.

A Bill Relating to Children and Young Persons

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

1. This Ordinance may be cited as "the Juvenile Offenders Ordinance, 1962." Short title.

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

"child" means a person under the age of fourteen years.

"young person" means a person who is fourteen years of age or upwards and under the age of sixteen years.

"guardian" in relation to a child or young person includes any person who, in the opinion of the court having cognizance of any case in relation to the child or young person or in which the child or young person is concerned, has for the time being the charge of or control over the child or young person.

"probation officer" means a person appointed under this Ordinance by the Governor or by the court to be a probation officer.

3. (1) A court when hearing charges against children or young persons shall, unless the child or young person is charged jointly with any other person not being a child or young person, sit either in a different building or room from that in which the ordinary sittings of the court are held, or on different days or at different times from those at which the ordinary sittings are held and a court so sitting is in this Ordinance referred to as a juvenile court. Juvenile courts

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courts

(2) Where in the course of any proceedings in a juvenile court it appears to the court that the person charged or to whom the proceedings relate is of the age of sixteen years or upwards, or where in the course of any proceedings in any court other than a juvenile court it appears that the person charged or to whom the proceedings relate is under the age of sixteen years, nothing in this section shall be construed as preventing the court if it thinks it undesirable to adjourn the case, from proceeding with the hearing and determination of the case.

(3) Provision shall be made for preventing persons apparently under the age of sixteen years whilst being conveyed to or from court, or whilst waiting before or after their attendance in court, from association with adults charged with or convicted of any offence other than an offence with which the person apparently under the age of sixteen years is jointly charged or convicted.

(4) In a juvenile court no person other than the members and officers of the court and the parties to the case, their advocates, and other persons directly concerned in the case, shall, except by leave of the court, be allowed to attend:

Provided that bona fide representatives of a newspaper or news agency shall not be excluded, except by special order of the court:

Provided that no person shall publish the name, address, school, photograph, or anything likely to lead to the identification of the child or young person before the juvenile court, save with the permission of the court or in so far as required by the provisions of this Ordinance. Any person who acts in contravention of the provisions of this proviso shall be liable to a fine not exceeding fifty pounds.

4. Where a person apparently under the age of sixteen years is apprehended with or without warrant and cannot be brought forthwith before a court, the officer to whom such person is brought shall inquire into the case, and may in any case, and

- (a) unless the charge is one of homicide or other grave crime; or
- (b) unless it is necessary in the interest of such person to remove him from the association with any undesirable person; or

Bail of children and young persons arrested

- (c) unless the officer has reason to believe that the release of such person would defeat the ends of justice,

shall release such person on a recognizance, with or without sureties, for such amount as will, in the opinion of the officer, secure the attendance of such person upon the hearing of the charge, being entered into by him or by his parent or guardian, or other responsible person.

5. Where a person apparently under the age of sixteen years having been apprehended is not so released as aforesaid, the officer to whom such person is brought shall cause him to be detained in a place of detention provided under this Ordinance until he can be brought before a court, unless the officer certifies—

- (a) that it is impracticable to do so; or
- (b) that he is of so unruly or depraved a character that he cannot be safely so detained; or
- (c) that by reason of his state of health or of his mental or bodily condition it is inadvisable so to detain him;

and the certificate shall be produced to the court before which the person is brought.

6. It shall be the duty of the Commissioner of Police to make arrangements for preventing, so far as practicable, a child or young person while being detained, from associating with an adult, other than a relative, charged with an offence.

7. (1) A court on remanding or committing for trial a child or young person who is not released on bail, shall, instead of committing him to prison, commit him to custody in a place of detention provided under this Ordinance and named in the commitment, to be there detained for the period for which he is remanded or until he is thence delivered in due course of law:

Provided that in the case of a young person it shall not be obligatory on the court so to commit him if the court certifies that he is of so unruly a character that he cannot be safely so committed, or that he is of so depraved a character that he is not a fit person to be so detained.

Custody of children and young persons not discharged on bail after arrest.

Association with adults, during detention in police stations.

Remand or commitment to custody in place of detention.

(2) A commitment under this section may be varied or, in the case of a young person who proves to be of so unruly a character that he cannot be safely detained in such custody or to be of so depraved a character that he is not a fit person to be so detained, revoked by any court acting in or for the place in or for which the court which made the order acted, and if it is revoked the young person may be committed to prison.

8. (a) Where a child or young person is brought before a juvenile court for any offence it shall be the duty of the court as soon as possible to explain to him in simple language the substance of the alleged offence.

(b) Where a child is brought before a juvenile court for any offence other than homicide the case shall be finally disposed of in such court, and it shall not be necessary to ask the parent whether he consents that the child shall be dealt with in the juvenile court.

(c) Where a young person is brought before a juvenile court for an offence triable by the Supreme Court other than homicide and the court becomes satisfied at any time during the hearing of the case that it is expedient to deal with it summarily, the court shall put to the young person the following or a similar question, telling him that he may consult his parent or guardian before replying—

“Do you wish to be tried by this court or by the Supreme Court?”

and the court shall explain to the young person and to his parent or guardian the meaning of being so tried and the place where the trial would be held.

(d) After explaining the substance of the alleged offence the court shall ask the child or the young person (except in cases where the young person does not wish to be tried in the juvenile court) whether he admits the offence.

(e) If the child or young person does not admit the offence the court shall then hear the evidence of the witnesses in support thereof. At the close of the evidence in chief of each such witness the magistrate shall ask the child or young person, or, if he see fit, the child's parent or guardian, whether he wishes to put any questions to the witness.

If the child or young person instead of asking questions wishes to make a statement he shall be allowed to do so. It shall be the duty of the court to put to the witnesses such

questions as appear to be necessary. The court may put to the child or young person such questions as may be necessary to explain anything in the statement of the child or young person.

(f) If it appears to the court that a prima facie case is made out, the evidence of any witnesses for the defence shall be heard, and the child or young person shall be allowed to give evidence or to make any statement.

(g) If the child or young person admits the offence or the court is satisfied that it is proved, he shall then be asked if he desires to say anything in extenuation or mitigation of the penalty or otherwise. Before deciding how to deal with him the court shall obtain such information as to his general conduct, home surroundings, school record, and medical history, as may enable it to deal with the case in the best interests of the child or young person, and may put to him any question arising out of such information. For the purpose of obtaining such information or for special medical examination or observation the court may from time to time remand the child or young person on bail or to a place of detention.

(h) If the child or young person admits the offence or the court is satisfied that it is proved, and the court decides that a remand is necessary for purposes of enquiry or observation, the court may cause an entry to be made in the court register that the charge is proved and that the child or young person has been remanded. The court before which a child or young person so remanded is brought may without further proof of the commission of the offence make any order in respect of the child or young person which could have been made by the court which so remanded the child or young person.

9. (1) The Governor may by notice in the Gazette appoint a fit and proper person or persons of either sex and either by name or as holding any public office for the time being to be a probation officer or officers for any area, and may from time to time appoint a deputy probation officer for such area to act in the absence or during the illness or incapacity of the probation officer, and may appoint an assistant probation officer to perform under the direction of the probation officer all or any of the duties of a probation officer in any portion of such area.

Probation officers.

A probation officer when acting under a probation order shall be subject to the control of the courts for the area for which he is appointed.

Probation
orders.

(2) Where a child or young person is charged with any offence other than homicide and the court is satisfied that the charge is proved, the court may make an order discharging the offender conditionally on his entering into a recognizance, with or without sureties, to be of good behaviour and to appear for sentence when called upon at any time during such period, not exceeding three years, as may be specified in the order. A recognizance entered into under this section shall, if the court so order, contain a condition that the offender be under the supervision of such person as may be named in the order during the period specified in the order and such other conditions for securing such supervision as may be specified in the order, and an order requiring the insertion of such conditions as aforesaid in the recognizance is in this Ordinance referred to as a probation order.

Who to be
named as
probation
officer.

(3) The person named in any probation order shall be—

- (a) a probation officer appointed by the Governor for the area in or for which the court acts, or
- (b) if the court considers it expedient on account of the place of residence of the offender, or for any other special reason, a probation officer appointed by the Governor for some other area, or
- (c) if the court considers that the special circumstances of the case render it desirable, or if no person has been appointed as a probation officer, a person who has not been appointed a probation officer for any area.

(4) The person named in a probation order may at any time be relieved of his duties, and, in any such case or in case of the death of the person so named, another person may be substituted by the court before which the offender is bound by his recognizance to appear for conviction or sentence.

Duties of
probation
officer.

(5) It shall be the duty of a probation officer, subject to the directions of the court—

- (a) to visit or receive reports from the person under supervision at such reasonable intervals as may be specified in the probation order or, subject thereto, as the probation officer may think fit;

(b) to see that he observes the conditions of his recognizance;

(c) to report to the court as to his behaviour;

(d) to advise, assist, and befriend him, and, when necessary, to endeavour to find him suitable employment.

(6) The court before which any person is bound by his recognizance under this Ordinance to appear for conviction or sentence may, upon the application of the probation officer, and after notice to the offender, vary the conditions of the recognizance and may, on being satisfied that the conduct of that person has been such as to make it unnecessary that he should remain longer under supervision, discharge the recognizance.

Power to
vary
conditions
of release.

(7) (a) If the court before which an offender is bound by his recognizance to appear for conviction or sentence, or any court, is satisfied by information on oath that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension, or may, if it thinks fit, instead of issuing a warrant in the first instance, issue a summons to the offender and his sureties (if any) requiring him or them to attend at such court and at such time as may be specified in the summons.

Provision
in case of
offender
failing to
observe
conditions
of release.

(b) The offender, when apprehended, shall, if not brought forthwith before the court before which he is bound by his recognizance to appear for conviction or sentence, be brought before a court.

(c) The court before which an offender on apprehension is brought, or before which he appears in pursuance of such summons as aforesaid, may, if it is not the court before which he is bound by his recognizance to appear for conviction or sentence, remand him to custody or on bail until he can be brought before the last-mentioned court.

(d) A court, before which a person is bound by his recognizance to appear for conviction and sentence, on being satisfied that he has failed to observe any condition of his recognizance, may forthwith, without any further proof of his guilt, deal with him as for the original offence.

(8) Where an order under this section is made by a court the order shall, for the purpose of re-vesting or restoring stolen property and of enabling the court to make orders as to the restitution or delivery of property to the owner and as to the payment of money upon or in connexion with such restitution or delivery, have the like effect as a conviction.

Attendance at court of parent of child or young person charged with an offence, &c.

10. Where a child or young person is charged with any offence, the court may in its discretion require the attendance of his parent or guardian and may make such orders as are necessary for the purpose.

Power to order parent to pay fine, &c., instead of child or young person

11. (1) Where a child or young person is charged before any court with any offence for the commission of which a fine, damages or costs may be imposed, and the court is of opinion that the case would be best met by the imposition of a fine, damages, or costs, whether with or without any other punishment, the court may in any case, and shall if the offender is a child, order that the fine, damages, or costs awarded be paid by the parent or guardian of the child or young person instead of by the child or young person, unless the court is satisfied that the parent or guardian cannot be found or that he has not conduced to the commission of the offence by neglecting to exercise due care of the child or young person.

(2) Where a child or young person is charged with any offence, the court may order his parent or guardian to give security for his good behaviour.

(3) Where a court thinks that a charge against a child or young person is proved, the court may make an order on the parent or guardian under this section for the payment of damages or costs or requiring him to give security for good behaviour, without proceeding to the conviction of the child or young person.

(4) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so, but, save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(5) Any sums imposed and ordered to be paid by a parent or guardian under this section, or on forfeiture of any such security as aforesaid, may be recovered from him by distress or imprisonment in like manner as if the order had been made on the conviction of the parent or guardian of the offence with which the child or young person was charged.

(6) A parent or guardian may appeal against an order under this section to the Supreme Court.

12. (1) No child shall be sentenced to imprisonment or detention in a detention camp.

Restrictions on punishment of children and young persons.

(2) No young person shall be sentenced to imprisonment if he can be suitably dealt with in any other way whether by probation, fine, corporal punishment, committal to a place of detention, reformatory or industrial school, or otherwise.

(3) A young person sentenced to imprisonment shall not be allowed to associate with adult prisoners.

13. Notwithstanding anything in this Ordinance to the contrary, where a child or young person is convicted of an attempt to murder, or of manslaughter, or of wounding with intent to do grievous bodily harm, the court may sentence the offender to be detained for such period as may be specified in the sentence; and where such a sentence is passed the child or young person shall, during that period, notwithstanding anything in the other provisions of this Ordinance, be liable to be detained in such place and on such conditions as the Governor may direct, and whilst so detained shall be deemed to be in legal custody.

Detention in the case of certain crimes committed by children or young persons.

14. Where a child or young person is convicted of an offence punishable, in the case of an adult, with imprisonment, or would, if he were an adult, be liable to be imprisoned in default of payment of any fine, damage, or costs, and the court considers that none of the other methods in which the case may legally be dealt with is suitable, the court may order that he be committed to custody in a place of detention for a period not exceeding six months.

Committing child or young person to place of detention.

Children
liable to be
committed
to care of
relative, &c.

15. (1) Any person may bring before a juvenile court any person apparently under the age of fourteen years who—

- (a) is found begging or receiving alms (whether or not there is any pretence of singing, playing, performing, offering anything for sale, or otherwise), or being in any street, premises, or place for the purpose of so begging or receiving alms; or
- (b) is found wandering and not having any home or settled place of abode, or visible means of subsistence, or is found wandering and having no parent or guardian, or a parent or guardian who does not exercise proper guardianship; or
- (c) is found destitute, not being an orphan and having both parents or his surviving parent, or in the case of an illegitimate child his mother, undergoing imprisonment; or
- (d) is under the care of a parent or guardian who, by reason of criminal or drunken habits, is unfit to have the care of the child; or
- (e) is the daughter, whether legitimate or illegitimate, of a father who has been convicted of an offence under section 148 of the Penal Code in respect of any of his daughters, whether legitimate or illegitimate; or
- (f) frequents the company of any reputed thief, or common or reputed prostitute; or
- (g) is being persistently ill-treated or neglected by his parent; or
- (h) is lodging or residing in a house or the part of a house used by any prostitute for the purpose of prostitution, or is otherwise living in circumstances calculated to cause, encourage, or favour the seduction or prostitution of the child.

and the court before which a person is brought as coming within one of those descriptions, if satisfied on enquiry of that fact, may order the child to be taken out of the custody, charge, or care of any person, and to be committed to the care of a relative of the child or some other fit person or institution named by the court (such relative or other person or institution being willing to undertake such care), until the

No. 30 of 1930.

child attains the age of eighteen years, or for any shorter period, and may in addition to such order make an order that the child be placed under the supervision of a probation officer, and the court may of its own motion, or on the application of any person, from time to time, by order renew, vary, or revoke any such order.

Provided that the court may at any time on the application of the person or institution to whose care any female child is committed under this section, and with the consent of such child, extend the period for which she was so committed until she attains the age of twenty-one years:

Power to extend period of custody in case of female child.

Provided further that a child shall not be treated as coming within the description contained in paragraph (f) if the only common or reputed prostitute whose company the child frequents is the mother of the child, and she exercises proper guardianship and due care to protect the child from contamination.

(2) Every order made under this section shall be in writing, and any such order may be made by the court in the absence of the child; and the consent of any person or institution to undertake the care of the child in pursuance of any such order shall be proved in such manner as the court may think sufficient to bind that person or institution.

(3) (i) Any person or institution to whose care a child is committed under this section shall, whilst the order is in force, have the like control over him as the parent, and shall be responsible for his maintenance, and he shall continue in the care of such person or institution, notwithstanding that he is claimed by his parent or any other person, and if any person—

- (a) knowingly assists or induces, directly or indirectly, a person in respect of whom an order has been made under this section to escape from the person or institution to whose care he is so committed; or
- (b) knowingly harbours, conceals, or prevents from returning to such person or institution, a person in respect of whom an order has been made under this section who has so escaped, or knowingly assists in so doing.

he shall be liable to a fine not exceeding fifty pounds, or to imprisonment for a term not exceeding three months.

(ii) Any court having power so to commit a child shall have power to make orders on the parent or other person liable to maintain the child to contribute to his maintenance during such period as aforesaid such sums as the court shall think fit, and may from time to time vary such orders.

(iii) Any such order may be made on the complaint or application of the person or institution to whose care the child is for the time being committed, and either at the time when the order for the committal of the child to his care is made, or subsequently, and the sums contributed by the parent or such other person shall be paid to such person or institution as the court may name, and be applied for the maintenance of the child.

(iv) Where any parent or other person has been ordered under this section to contribute to the maintenance of a child, he shall give notice of any change of address to the Commissioner of Police, and if he fails to do so without reasonable excuse, he shall be liable to a fine not exceeding twenty pounds.

(4) The Governor may at any time in his discretion discharge a child or young person from the care of any person or institution to whose care he is committed in pursuance of this section, either absolutely or on such conditions as the Governor approves, and may, if he thinks fit, make rules in relation to children so committed to the care of any person or institution, and to the duties of and remuneration of such persons or institutions with respect to such children.

Emigration

16. The Governor, in any case where it appears to him to be for the benefit of a child or young person who has been committed to the care of any person or institution in pursuance of section 15, may empower such person to procure the emigration of the child or young person, but, except with such authority, no person to whose care a child is so committed shall procure or allow his emigration.

Methods of dealing with children and young persons charged with offences

17. Where a child or young person charged with any offence is tried by any court, and the court is satisfied of his guilt, the court shall take into consideration the manner in which, under the provisions of this or any other Ordinance or otherwise enabling the court to deal with the case, the case should be dealt with, namely, whether—

- (a) by dismissing the charge; or
- (b) by discharging the offender on his entering into a recognizance; or

- (c) by so discharging the offender and placing him under the supervision of a probation officer; or
- (d) by committing the offender to the care of a relative or other fit person; or
- (e) by sending the offender to an industrial school; or
- (f) by sending the offender to a reformatory school; or
- (g) by ordering the offender to be whipped; or
- (h) by ordering the offender to pay a fine, damages, or costs; or
- (i) by ordering the parent or guardian of the offender to pay a fine, damages, or costs; or
- (j) by ordering the parent or guardian of the offender to give security for his good behaviour; or
- (k) by committing the offender to custody in a place of detention provided under this Ordinance; or
- (l) where the offender is a young person, by sentencing him to imprisonment; or
- (m) by dealing with the case in any other manner in which it may be legally dealt with;

Provided that nothing in this section shall be construed as authorizing the court to deal with any case in any manner in which it could not deal with the case apart from this section.

18. (1) It shall be the duty of the Commissioner of Police to provide such places of detention for each district as may be required for the purposes of this Ordinance, but nothing shall prevent the same place of detention being provided for two or more districts.

Provision of places of detention

(2) If more than one place of detention is provided for in any district the Commissioner of Police may determine that any such place shall be used for some only of the purposes for which places of detention are required to be provided and another place for the other purposes.

(3) It shall be lawful for the authority or persons responsible for the management of any institution other than a prison whether supported out of public funds or by voluntary contributions, but subject in the case of an institution supported out of public funds to the consent of the Governor

to agree with the Commissioner of Police for the use of the institution or any part thereof as a place of detention on such terms as may be agreed upon between them and the Commissioner of Police.

(4) In selecting the place of detention to which a child or young person is to be committed the court or officer of police shall have regard, where practicable, to the religious persuasion of the child or young person.

19. (1) The order or judgment in pursuance of which a child or young person is committed to custody in a place of detention provided under this Ordinance shall be delivered with the child or young person to the person in charge of the place of detention and shall be a sufficient authority for his detention in that place in accordance with the tenor thereof.

(2) A child or young person whilst so detained and whilst being conveyed to and from the place of detention shall be deemed to be in legal custody and if he escapes may be apprehended without warrant and brought back to the place of detention in which he was detained.

(3) The Governor shall cause places of detention provided under this Ordinance to be inspected, and may make rules as to the places to be used as places of detention, and as to their inspection, and as to the classification, treatment, employment, and control of children and young persons detained in custody in a place of detention provided under this Ordinance, and for the children and young persons whilst so detained being visited from time to time by persons appointed in accordance with those rules.

20. The expenses incurred by the Commissioner of Police in respect of any place of detention provided by the authority, including the expenses of the maintenance of any child or young person detained therein, whether detained on apprehension or committed to custody on remand or commitment for trial or in lieu of imprisonment or in default of payment of a fine, damages, or costs, shall be defrayed out of moneys voted for the purpose by the Legislative Council.

21. Where a person, whether charged with an offence or not, is brought before any court otherwise than for the purpose of giving evidence, and it appears to the court that

Provisions as to custody of children and young persons in places of detention.

Expenses of maintenance of child or young person.

Presumption and determination of age.

he is a child or young person, the court shall make due enquiry as to the age of that person, and for that purpose shall take such evidence as may be forthcoming at the hearing of the case, but an order or judgment of the court shall not be invalidated by any subsequent proof that the age of that person has not been correctly stated to the court, and the age presumed or declared by the court to be the age of the person so brought before it shall, for the purposes of this Ordinance, be deemed to be the true age of that person, and, where it appears to the court that the person so brought before it is of the age of sixteen years or upwards, that person shall for the purpose of this Ordinance be deemed not to be a child or young person.

22. The Governor in Council may make rules for carrying this Ordinance into effect, and in particular for prescribing such matters incidental to the appointment, resignation, and removal of probation officers, and the performance of their duties, the reports to be made by them, and the payment of their remuneration or out-of-pocket expenses, as may appear to be necessary.

Power to make rules.

23. Save in so far as other provision is expressly made in this Ordinance, nothing in this Ordinance shall be deemed to affect any other law relating to children or young persons.

Saving

24. (1) The provisions of sections 18, 19 and 20 of this Ordinance shall not come into force until the Governor by proclamation has declared that the provisions of the said sections shall as from a date to be specified in the said proclamation be in force either in the whole Colony or in any area or areas in the Colony.

Suspended operation of certain sections of the Ordinance.

(2) Until the issue of such proclamation as aforesaid the provisions of sections 6, 7, 8, 12, 14 and 17 of this Ordinance shall be read as if reference therein to a place of detention provided under this Ordinance, a place of detention, an industrial school or a reformatory school, as the case may be, were reference to a detention camp established under the Detention Camps Ordinance, 1925.

to agree with the Commissioner of Police for the use of the institution or any part thereof as a place of detention on such terms as may be agreed upon between them and the Commissioner of Police.

(4) In selecting the place of detention to which a child or young person is to be committed the court or officer of police shall have regard, where practicable, to the religious persuasion of the child or young person.

Provisions as to custody of children and young persons in places of detention

19. (1) The order or judgment in pursuance of which a child or young person is committed to custody in a place of detention provided under this Ordinance shall be delivered with the child or young person to the person in charge of the place of detention and shall be a sufficient authority for his detention in that place in accordance with the tenor thereof.

(2) A child or young person whilst so detained and whilst being conveyed to and from the place of detention shall be deemed to be in legal custody and if he escapes may be apprehended without warrant and brought back to the place of detention in which he was detained.

(3) The Governor shall cause places of detention provided under this Ordinance to be inspected, and may make rules as to the places to be used as places of detention, and as to their inspection, and as to the classification, treatment, employment, and control of children and young persons detained in custody in a place of detention provided under this Ordinance, and for the children and young persons whilst so detained being visited from time to time by persons appointed in accordance with those rules.

Expenses of maintenance of child or young person.

20. The expenses incurred by the Commissioner of Police in respect of any place of detention provided by the authority, including the expenses of the maintenance of any child or young person detained therein, whether detained on apprehension or committed to custody on remand or commitment for trial or in lieu of imprisonment or in default of payment of a fine, damages, or costs, shall be defrayed out of moneys voted for the purpose by the Legislative Council.

Presumption and determination of age.

21. Where a person, whether charged with an offence or not, is brought before any court otherwise than for the purpose of giving evidence, and it appears to the court that

he is a child or young person, the court shall make due enquiry as to the age of that person, and for that purpose shall take such evidence as may be forthcoming at the hearing of the case, but an order or judgment of the court shall not be invalidated by any subsequent proof that the age of that person has not been correctly stated to the court, and the age presumed or declared by the court to be the age of the person so brought before it shall, for the purposes of this Ordinance, be deemed to be the true age of that person, and, where it appears to the court that the person so brought before it is of the age of sixteen years or upwards, that person shall for the purposes of this Ordinance be deemed not to be a child or young person.

22. The Governor in Council may make rules for carrying this Ordinance into effect, and in particular for prescribing such matters incidental to the appointment, resignation, and removal of probation officers, and the performance of their duties, the reports to be made by them, and the payment of their remuneration or out-of-pocket expenses, as may appear to be necessary.

Power to make rules

23. Save in so far as other provision is expressly made in this Ordinance, nothing in this Ordinance shall be deemed to affect any other law relating to children or young persons.

Saving

24. (1) The provisions of sections 18, 19 and 20 of this Ordinance shall not come into force until the Governor by proclamation has declared that the provisions of the said sections shall as from a date to be specified in the said proclamation be in force either in the whole Colony or in any area or areas in the Colony.

Suspended operation of certain sections of the Ordinance.

(2) Until the issue of such proclamation as aforesaid the provisions of sections 6, 7, 8, 12, 14 and 17 of this Ordinance shall be read as if reference therein to a place of detention provided under this Ordinance, a place of detention, an industrial school or a reformatory school, as the case may be, were reference to a detention camp established under the Detention Camps Ordinance, 1925.

OBJECTS AND REASONS.

The Bill has been prepared at the desire of the Secretary of State to give effect to the recommendations of a Committee appointed by him last year "to consider what special arrangements are in force in Dependencies under the control of the Colonial Office in connexion with the trial and punishment of young offenders and to make recommendations."

The draft Bill is based on the English Children Act, 1908, the Probation of Young Offenders Act, 1907, and the Home Office Report of the Departmental Committee on the treatment of Young Offenders.

In view of the present financial position provision is made in clause 24 of the Bill for suspending those provisions of the Bill which entail expenditure on buildings and staff.

Probation officers will for the present not be appointed unless they are prepared to give their services without cost to Government.

Until clauses 18, 19 and 20 are given effect to no expenditure from Government funds will be entailed.

Section 27 of the Principal Ordinance which it is proposed to amend :—

Corporal
punishment.

27. (1) A sentence of corporal punishment shall be to be whipped once only. Such whipping shall be with a rod or cane to be approved by the Governor or with such other instrument as the Governor may approve. The sentence shall specify the number of strokes which shall not exceed twenty-four. Where the number of strokes exceeds twelve such order shall be subject to confirmation by the Supreme Court and shall not be carried into effect until such confirmation shall have been received.

(2) No sentence of corporal punishment shall be passed upon any of the following persons :—

- (a) Females.
- (b) Males sentenced to death.
- (c) Males whom the court considers to be more than forty-five years of age.

(3) Whenever a male person under the age of sixteen years is convicted of any offence for which he is liable to imprisonment, the court may, in its discretion, sentence him to corporal punishment in addition to or in substitution for any other punishment to which he is liable.

(4) A sentence of corporal punishment shall not be carried out except in the presence of a Government Medical Officer, or if no such Medical Officer is available, of a European Officer of the Colony, nor before such Medical or other Officer has after examination certified that in his opinion the prisoner is physically fit to undergo the sentence of corporal punishment about to be inflicted on him.

(5) The Medical or other European Officer may at any time during the carrying out of the sentence of corporal punishment intervene and prohibit the remainder of the sentence from being carried out, if in his opinion the prisoner is unable to bear such sentence without risk of grave or permanent injury.

(6) No sentence of corporal punishment shall be carried out by instalments.

GOVERNMENT NOTICE No 566.

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

H. E. BADER,

Acting Clerk of the Legislative Council.

A Bill to Amend the Penal Code.

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

1. This Ordinance may be cited as "the Penal Code (Amendment) Ordinance, 1932," and shall be read as one with the Penal Code, hereinafter referred to as "the Principal Ordinance." Short title.
No. 10 of 1930.

2. Section 27 of the Principal Ordinance is hereby amended by adding the following at the end of sub-section (3) thereof :— Amendment of
section 27 of
the Principal
Ordinance

Provided that no sentence of corporal punishment may be imposed in default of payment of a fine.

OBJECTS AND REASONS.

The correct construction of sub-section (3) of section 27 of the Penal Code, which permits of a sentence of corporal punishment being passed on young males on conviction for an offence for which a sentence of imprisonment may be imposed, has been a matter of doubt to some magistrates and this amendment is designed to make the legal position quite clear.

No expenditure of public moneys will be involved if the provisions of this Bill become law.

GOVERNMENT NOTICE No. 567

ARRIVAL

Name	Rank	From leave or on 1st Appointment	Date of leaving England	Date of Embarkation	Date of arrival at Mombasa
J. W. Griffin	Assistant Inspector of Police	Leave	7th July, 1932	—	19th Aug., 1932

DEPARTURES

Name	Rank	On leave or termination of appointment	Date of Departure
L. Long	Chief Instructor, Medical Department	Leave	20th August, 1932
H. Theobald	Dispenser, Medical Department	"	" "
Lieut. F. K. Brooke	Company Officer, Military	"	" "
W. J. Hurst	Weighting Machine Inspector, K.U.R. & H.	"	" "
J. U. Sullivan	Artisan, II Class, K. U. R. & H.	"	" "

APPOINTMENTS.

JOHN EDWARD SIEGFRIED MERRICK, O.B.E., B.A., Principal Assistant Colonial Secretary, detailed for special duty, with effect from 25th August, 1932.

CECIL JAMES JUXON TALBOT BARTON, O.B.E., M.A., to be Acting Principal Assistant Colonial Secretary, with effect from 25th August, 1932.

HUBERT EUGENE BADER, B.A., LL.B., Barrister-at-Law, to be Acting Secretary, Secretariat, with effect from 25th August, 1932.

GEORGE BERESFORD STOKES, to be Acting Clerk to Legislative Council, with effect from 25th August, 1932.

EDWARD GORDON ST. CLAIR TISHALL, M.C., to be Acting Resident Magistrate, Nairobi District and Kikuyu Province, with effect from the 29th August, 1932.

CAPT. H. C. HOPE-MURRAY, to be Acting Officer Commanding "F" Company, 3rd King's African Rifles, with effect from the 10th June, 1932.

REVERSIONS.

PATRICK CAMPBELL MACDOUGALL WATSON reverts to his substantive rank of Principal Assistant Treasurer as from the 10th of August, 1932.

DARRELL SMYLY WARDLE reverts to his substantive rank of Senior Assistant Treasurer as from the 10th of August, 1932.

HAROLD RUFERT HURST reverts to his substantive rank of Assistant Treasurer as from the 10th of August, 1932.

PRELIMINARY ORAL SWAHILI EXAMINATION.

PASS.

J. E. P. BOORS, Agricultural Officer.

J. E. S. MERRICK,
for Colonial Secretary.

GOVERNMENT NOTICE No. 567.

ARRIVAL

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REVERSIONS.

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- DARRILL SMYLY WARDLE reverts to his substantive rank of Senior Assistant Treasurer as from the 10th of August, 1932.
- HAROLD RUPERT HIRAT reverts to his substantive rank of Assistant Treasurer as from the 10th of August, 1932.

PRELIMINARY ORAL SWAHILI EXAMINATION.

PASS:

- J. E. P. ROORA, Agricultural Officer.

J. E. S. MERRICK,
for Colonial Secretary.

REPORT ON BORSTAL AND OTHER REFORMATORY
INSTITUTIONS IN ENGLAND.

On July 25th 1932 the following letter was received from the
Under Secretary of State, Colonial Office.

Downing Street,
22nd July, 1932.

Sir,

I am directed to inform you that the Governor of Kenya has reported by telegram that, before proceeding with legislation dealing with Juvenile Offenders, it is desired to obtain information with regard to the juvenile corrective methods employed at the Borstal and other reformatory institutions in this country, with a view to ascertaining the practicability of the application of similar methods in the Colony.

2. The Governor suggests that you should visit one or more representative institutions and study the literature on the subject, preparatory to furnishing a report with particular reference to the proposed legislation.

During the month of August, I received the following from Native Affairs Department, Nairobi. I am directed to confirm the telegram to the Colonial Office despatched on 13th instant and to inform you that the Juvenile Crime Committee made the following recommendation on page 30 paragraph 50 of their report -

"We therefore recommend that an Administrative Officer should be granted extra leave to enable him to study the subject of treatment of juvenile offenders in

Reformatories,

Reformatories, Borstal Institutes and other Institutions in England; that he should then make a report as to the type of officer required for appointment as Reformatory Superintendent and that in the meantime the Bill relating to Children and Young Persons be not proceeded with until such report is received."

2. His Excellency the Governor-in-Council has instructed that -

"Mr. S.H. LaFontaine should be instructed to familiarise himself with the English Procedure in dealing with juvenile delinquency"

2. Owing to private arrangements which could not be cancelled without financial loss, it was not possible to visit Borstal and other Institutions until the latter end of August.

3. Visits were made as follows:-

26/8/32 Borstal Section of Wormwood Scrubs Prison.

29/8/32. Borstal Institution at Feltham.

30/8/32. Headquarters of the Borstal Institution at 131, Victoria Street, Westminster, where I had an hour's conversation with the Director, Sir Wemyss Grant-Wilson who shewed me the records in his office and gave me all the available information.

1/9/32 and 2/9/32 Borstal Institution at Rochester.

3/9/32 The Philanthropic Society's Reformatory School at Redhill.

8/9/32. Church Farm School (Industrial School at East Barnet.)

21/9/32. Borstal Institution at Lowdham.

I also had an interview with Mrs. Le Mesurier, Leader of the Women Workers H.M. Boys' Prison, Wormwood Scrubs.

4. As Borstal Schools admit only convicted offenders between
the

the ages of 16 and 21, it was necessary, in order to cover the whole field of enquiry to visit one or two representative Home Office Schools which deal with offenders under the age of 16.

5. Reformatory Schools receive juveniles, between the ages of 13 and 16, who have been convicted of an offence, punishable in the case of an adult with penal servitude or at least imprisonment.
6. Industrial Schools. Industrial schools are intended, broadly speaking for the reception from the Courts of children under 14, who are so neglected by their parents as to be placed in a situation of moral danger (Children's Act 1908 p.58) and who come under the following categories;

(a) found begging or receiving alms (whether or not there is any pretence of singing, acting, performing, offering anything for sale or otherwise) or being in any street, premises or place for the purpose of so begging or receiving alms;

(b) found wandering and not having any home or settled place of abode or visible means of existence or is found wandering and having no parent or guardian, or a parent or guardian who does not exercise proper guardianship;

(c) found destitute, not being an orphan and having both parents or his surviving parent or in the case of an illegitimate child his mother, undergoing penal servitude or imprisonment;

(d) under the care of a parent or guardian who by reason of original or drunken habits is unfit to have the care of the child.

(e) the daughter whether legitimate or illegitimate of a father who has been convicted of an offence under section four

or section five of the Criminal Law Amendment Act 1885 in respect of any of his daughters whether legitimate or illegitimate;

(f) frequents the company of any reputed thief or of any common or reputed prostitute;

(g) lodging or residing in a house or part of a house used by any prostitute for the purposes of prostitution or is otherwise living in circumstances calculated to cause encourage or favour the seduction or prostitution of the child.

7. The following classes of children may also be committed to industrial schools;

(1) Children under 12 charged with offences punishable in the case of an adult by penal servitude or less punishment (Children's Act 1908 section 58 (2)).

(2) Children of 12 and 13 who have not been previously convicted and who are charged with offences punishable in the case of an adult by penal servitude or less punishment. The Court must satisfy itself that a child so committed will not exercise an evil influence over the other children in an industrial school (Children's Act 1908 section 58 (3)).

(3) Children under 14 beyond the control of their parents or guardians on the application of the parents or guardians subject to the consent of the local authority liable for maintenance (Children's Act 1908 section 58 (4) and Children Act 1921 section 1 (2)).

(4) Children under 14 maintained in a workhouse or poor law school who are refractory or whose parents have been convicted (Children's Act 1908 section 58 (5)).

(5) Children whose parents fail to comply with School Attendance Orders (Education Act 1921 section 45 and Children's Act 1908 section 58 (6)).

5.

- 8. It will thus be realised that there are 3 types of Reformatory Schools or Institutions in England which deal with juvenile delinquents up to the age of 21.
- 9. In making this report the following books and papers have been freely used:-

The Borstal system (pamphlet issued by the Home Office 1928).

Reports of the Commissioners of Prisons for 1929 and 1930.

Report of the Departmental Committee on Persistent Offenders May, 1932.

Report by Mr. A. Paterson, His Majesty's Commissioner of Prison on the Prevention of Crime and treatment of the Criminal in Burma.

"Boys in trouble" by Mrs. Le Mesurier, Leader of the Women Workers His Majesty's Boys' Prison, Wormwood Scrubs.

- 10. It is proposed -

(a) to describe the system followed at Borstal Institution, the methods of after-care used by the Borstal Association, and the methods practised at Reformatory and Industrial Schools.

(b) to consider how far such methods are applicable to Kenya and

(c) to report as to the type of officer required for the post of Reformatory Superintendent.

11. Borstal Institutions

There are now 5 Borstal Institutions for boys, and the increase in the number has made it possible to set aside different institutions for different types of youths.

All offenders sentenced to Borstal are first sent to a special block at Wormwood Scrubs prison, known as the Boys' Prison.

Wormwood Scrubs Borstal Prison.

Here

Here each case is carefully reviewed in the light of all the information that can be obtained as to history, home circumstances and character; and the decision as to which of the Institutions shall receive a boy, depends on the extent of his criminality. At one end of the scale is an Institution which takes boys who have had most experience of evil courses: at the other is an institution which takes those who are in the initial stage. As a result of this system of classification, the risk of contamination can be reduced to a minimum and different kinds of training adopted for different types of offenders.

12. The Governor of the Boys' Prison at Wormwood Scrubs collects the following information regarding each case:-

Reports from Police

"	"	Parents
"	"	Employers
"	"	School
"	"	Probation Officer
"	"	Woman Visitor

References.

13. In the case of a lad under remand the Deputy-Governor on receipt of all the information available advises the Court as to whether the lad should be -

(a)

- (a) put on probation
- (b) sent to Borstal
- (c) sent to prison

Such recommendations are usually followed by the Judge or Magistrate. During his detention at Wormwood Scrubs the lad is subjected to a careful examination of his characteristics and he undergoes a strict routine in order to improve his physique to teach him discipline and not least to make him realise the unpleasantness of prison so that when he reaches the comparative freedom of a Borstal institution there should be a natural revulsion against a return to prison. During the period of his detention at Wormwood Scrubs the Borstal Association informs the lad by means of a notice displayed in the prison that, on his release he will be helped by the Association to make a fresh start.

- 14. **Period of Sentence.** The usual period of sentence is 3 years but the average time served is 25 months the remainder of the sentence being served under 'licence'

- 15. **Borstal Institutions.**

Organisation. Both at Feltham and at Rochester the lads number approximately 400 and they are divided up into 5 houses of about 80, each house under a house master and assistant house master. Within the house the lads are divided into groups numbering from 10 to 15, each group bearing its own name and each under the charge of a senior lad or 'group-leader' and in some cases a 'sub-leader' as well. There is also a 'house-captain' who is privileged to sit for meals at a table by himself.

Inter-group competitions for cleanliness, good conduct marks etc. are carried on in most houses, with a view to

inculcating

inculcating loyalty to the group and the idea of 'playing for the side'.

16. Grades. After a minimum period of 12 months during which lads wear brown dress, they may reach the Special Grade whose members wear blue. During the first 12 months they pass through 4 stages (each stage of a minimum 3 months) marked by the addition of a stripe. Promotion depends on real progress not on a mere absence of offences and the decision lies with the Governor after recommendation by the House master. On admission to the Special Grade or 'blues' lads are entitled to an issue of 10 cigarettes per week or some other commodity if they do not smoke. They are also accorded other privileges such as a special room for themselves where they can smoke, play billiards and read. In summer the bulk of them are taken for a fortnights' camping. 'Blues' are not eligible for discharge until a minimum period of 9 months has elapsed after promotion.

17. Pocket money. Boys in the Special Grade are given 4d. per week which sum is increased by successive stages to a maximum of 9d. per week. Token coins are issued with which purchases can be made at the canteen. The profits from the latter fund (which is supervised by an officer) go into the General purposes Fund and are used to finance Sports, Entertainment etc. Each boy is required to save not less than 3/- shillings from his pocket money before he can be considered for discharge, the object of this being to encourage him to budget for his income and expenditure and to teach him responsibility.

18. Discharge. If the conduct of a lad is good the period of detention is usually about 2 years. For the balance of his sentence

sentence of 3 years and for an additional period of one year he is licenced to the Borstal Association and remains under its supervision during this period.

19.
Daily routine.

5.40 Get up and wash.

6.15-6.45 Physical training.

Breakfast 6.50 a.m.

Prayers 7.40 "

Work 8-12 "

Dinner 12-1 p.m.

Work 1-5 p.m.

Tea 5

Private study, reading Lobby classes } 6-7.45

School etc. }

Recreation games etc. 7.45 to 8.30

Supper. 8.30

Bed. 9 to 9.30.

20. The cleaning is done by the 40 newest lads, who are grouped in a special house for the purpose. After 3 or 4 months these lads are apportioned out, some to work in an industry or trade e.g. building, blacksmithing, laundry work, gardening, carpentry and joinery, painting and decorating, boot and shoe-repairing, Plumbing, stoking, tailoring, baking, cooking; while the rest are employed on general labour on farm or road work.

The length of the term does not allow of a trade being taught completely but a useful grounding is given. The wishes of both boy and parents are consulted in the choice of a trade and given effect as far as possible.

21. The lads work in gangs under the field officers.. They are however despatched on messages etc. and have little or no restraint within the walls of the Institution and in some

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cases outside them.

At Lowdham Grange, when new experiments are being tried with remarkable success, there are no enclosing walls. The lads do not parade but proceed each to the work allotted to him on the sound of the bell, handing over their tally to the officer responsible.

22. Games and recreation.

The greatest importance is attached to these, one housemaster being charged with their organisation, arrangements of Matches etc. Football, Cricket, swimming, Boxing Athletics, gymnastics, are the various sports.

Inter-House Leagues have been organised with Shields and cups for the winning teams, but no individual prizes. The ideal of playing for the side is carefully inculcated. A healthy rivalry between Houses is greatly encouraged. Saturday afternoon is a half holiday and when fine is devoted to games.

23. On Saturday evenings in the winter arrangements are made for lectures or concerts, the latter sometimes provided by the boys themselves.

On ordinary evenings during term-time they go to Lobby-classes, the arrangement of which is the duty of one of the house-masters. The subjects chosen are of a very wide variety.

24. Clothing. The lads wear coat, shorts, shirt and stockings, their house being designated by the colour tops of the latter. The shorts are coloured blue or brown according to the grade.

None

11.

None of the staff from the Governor downwards wear uniform. This was abolished some years ago, the object of this being to remove the idea of prison from the lads' minds.

Supervising officers are unarmed.

25. Medical.

Besides being physically and psychoanalytically examined at Hornwood Scrubs before being sent to a Borstal Institution lads are similarly examined on reaching their destination by a qualified medical officer. At Feltham which specialises in mental cases, there is a resident medical officer, trained in psychoanalysis.

26. Sleeping Accommodation.

At Feltham the bulk of boys sleep in cells but elsewhere there are dormitories. There is no hard and fast rule and there is considerable division of opinion on the merits of either system. The advantage seems to be with the separate cell system, which ensures some measure of privacy.

27. Correspondence.

Parents are encouraged to correspond with their sons and lads are allowed to write once weekly or once fortnightly according to their grade.

28. Discipline.

This is usually enforced by the Housemasters and by the Governor to whom reports of serious misdemeanours and offences are made. A large discretion is left him in deciding what line to take. If he decides that a flogging is necessary the sentence must first be confirmed by the Visiting Committee, all of whom are magistrates, before it can be executed. The number of strokes with the birch is strictly limited.

12.

29. The institution of small courts among the lads themselves is now being tried. The house-captain presides, with group-leaders to assist him. There appeared to be a strong division of opinion among those officers whom I consulted as to the value of the experiment, and it is too early to pass judgment. The objection to it is that the penalties allowed, though slight and requiring the prior revision by the house-master, are often resented by the boys punished who complain that their judges are boys who have entered the Institution for the same reason as themselves.

The experiment is one which would be so foreign to the ideas of the African native that I doubt whether it should ever be tried in Kenya.

30. Objects of the Borstal system.

The above is a short review of the machinery of English Borstal institutions. It remains to mention the vitalising force behind it. This might be summarised as the good influence and selfless enthusiasm of the staff, the officers and particularly the Governors and house-masters, are selected men, interested in social work and with marked capacity for the handling of boys; they are carefully tested in the work before confirmation in their jobs, and ruthlessly rejected if found to be unsuitable.

31. The object of Borstal detention (as in the other classes of reformatory institutions) is training rather than punishment. "The aim is to give young offenders, whose

13.

whose minds and characters are still plastic, a new outlook and a new bent, and by the personal influence and examples of the staff to create a corporate spirit, and a standard of social behaviour while in the Institution which may persist after release; to inculcate in the workshops habits of application and industry; to stimulate intelligence and enlarge interests; and in sports and games to develop loyalty and the spirit of fair play. To achieve these ends it is necessary to require much work and give much training, to allow and encourage recreation; and to accord a measure of freedom, reposing trust in the individual, which shall increase as time goes by, so that each day may not only be fully occupied, but see some progress made in the general process of building up a stabler character". (source?) (Handbook on Home Office Reformatory Schools).

32. To achieve these objects the organisation of Borstal institution is specially designed. House-masters, who are the principal workers in this field and the keystone of the position are relieved of the ordinary routine of instruction; their duties are to study each individual lad under their charge both at work and at play, to organise their social activities, to arrange for the details of their recreation, to camp with them during the summer and generally to influence their lives.

33. If the men are of the right stamp, as judging by the several men whom I met they appear to be, their influence on the plastic material in their hands, is sure to be profound.

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It

14.

It is unfortunate that their duties are so heavy, lasting from early morn till 9 p.m. when the boys retire that they can devote little time to keeping in touch with and thus influencing the boys after they leave. In some cases house-masters do contrive to do this with some ex-Borstal boys at some sacrifice to themselves; but it appears to be a disadvantage of the system, that means have not yet been found for making this the rule and not the exception.

34. One of the most interesting aspects of the Borstal system is its elasticity. It is constantly changing and developing without any alteration of its fundamental objects. Experiments of various kinds are being tried out at the different institutions in order to ascertain the method best suited to the achievement of the main purpose of reformation. For instance at Lowdham Grange, a system of payment for work by results is being tested apparently with signal success. By it the boys are encouraged to put forward their best efforts to obtain their promotion from the lowest to the highest of the 5 grades which carry a progressive scale of remuneration. Perfect team work is also encouraged by the assessment of the work of each gang, and dividing the payment therefor amongst its members.

35. After-care of Borstal boys.

Herein lies the work of the Borstal Association. This body, which is financed partly by its own funds and contributions and partly by Government grants, is entrusted by Government with the after-care and control of all lads on their discharge from Borstal institutions.

It

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It consists of a Committee, sitting in London, with offices and staffs in London and Liverpool and a large number of Associates (who are in most cases Probation Officers also) in every part of England, who receive the lads, assist them to get work, encourage them to keep the terms of their licences, and report to the Home Office on their progress.

36. When a lad is sentenced to Borstal detention, the Governor of the local prison in whose custody he is, pending his transfer to Wormwood Scrubs, sends his home address to the Association. Immediately the local Associate is instructed to visit the home, fill up the usual form of report as to home conditions and return it so that it may be put at the disposal of the Governor of the Boys Prison at Wormwood Scrubs. Then he decides which of the Borstal Institutions is most suitable for his detention. At the same time, as mentioned above, a notice is displayed at the latter prison informing the lad of what the Association undertakes to do for him. Once the lad has reached his Borstal school the Director or leading officers of the Association visit him there at least once monthly, and are available for any talks the lad may like to have with them. Visits by parents to these lads are also subsidized by the Association from a fund put at their disposal by Sir William Morris.

37. Discharges.

At regular intervals, a board of the Institution consisting of the Governor and the housemasters meets to decide which boys are suited for discharge. Their recommendations must be confirmed by the Visiting Committee.

Then

16.

When a lad has been selected for discharge, the authorities being satisfied that there is a reasonable probability that he will abstain from crime, and lead a useful life, a letter is written to him by the Association informing him what it is proposed to do for him on release.

His institution record is then sent to the Association together with a summary of his character and progress by the Governor his housemaster and his Trade instructor. After this the lad is interviewed, arrangements made as to what he is to do on discharge, and a letter written to his parents or relatives announcing the date thereof.

On the morning of the discharge he is brought to the office of the Association in London, and given a letter to the Associate, advised to regard him as a friend, to obey his instructions and to observe the conditions of his licence.

38.

Terms of his licence.

A lad is licensed by the Secretary of State to the Borstal Association, and that licence continues in force for the unexpired part of his sentence and for an additional twelve months. The licence has been signed by him at the Institution after its terms have been explained to him, and provides that:-

- he shall obey such instructions as he may receive with regard to punctual and regular attendance at employment or otherwise,
- he shall not change his address without permission,
- he shall abstain from any violation of the law,
- he shall not associate with persons of bad character,
- he shall lead a sober and industrious life to the satisfaction of the Borstal Association.

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It will be observed that whilst the licence is very clear on certain points it leaves a wide area of conduct uncontrolled; it is not intended to enable the Association to insist on more than is necessary for the lad's observance of its rules.

39. Maintenance.

When a lad returns to his home his family must assume responsibility for his maintenance. In special circumstances however an allowance is made for maintenance usually for not more than a fortnight. On his discharge, every lad is provided with a complete outfit of cheap clothes and change of underclothing. The Associate is authorised to buy necessary working clothes for him when work is forthcoming.

Tools are sometimes provided for the boy on the condition that they are returned if he abandons the work for which they were provided or has no further use for them.

40. Function of the Associate.

To obtain work for the boy and when he is settled thereat to find a friend willing to visit him to link him-up with a social club or with a games club and with evening classes and generally to keep in close touch with him.

The Association is ready to help with fees for classes and for books etc. The Associate is further asked to report:-

18.

- (1) as soon as the lad arrives and is in touch with him,
- (2) as soon as he is settled in work,
- (3) monthly while he is on licence,
- (4) immediately if he becomes unsatisfactory, is lost sight of or breaks the terms of his licence.

41. Breaches of the Licence.

When a serious breach of the terms of the licence has been committed, a report is sent by the Association to the Prison Commissioners who may revoke his licence. If a lad has been lost sight of and there is question of his arrest, the police are instructed not to arrest him if he is found at work.

When he appears in a Police Court, Magistrates may either try the case and sentence him or leave the matter to the Prison Commissioners to deal with by revocation of the licence. In the latter event the Court is asked to sentence the lad ^{to} a few days detention to enable the Prison Commissioners to take the necessary action.

42. Help for lads unknown.

Associates are permitted to help lads unknown to them, who allege they are ex-inmates of Borstal, after the Association has been consulted; and the Police have been instructed by the Home Secretary similarly to assist such lads pending enquiry.

Appeal to Employers.

Associates are also supplied with forms of letters addressed to employers, appealing to them to give boys a chance to make good in employment, for use when required.

43. Result of System.

It is authoritatively claimed that in sixty-five per cent of the cases, the Borstal training is a success. Then it is remembered that a large proportion of boys are not committed by the Courts to Borstal until they have been several times convicted, the result is indeed satisfactory. Of the remaining 35% a number become good citizens after coming again once before the Court.

It is impossible accurately to measure the results that would be achieved were it possible to add to the supervision of the Borstal Associates systematic visits to ex-Borstal boys by house-masters whose influence had been ^{the} dominant cause of their reformation: and the maintenance through some organisation, of communication by letter or other means. It is probable, however, that the proportion of successes would be enormously increased.

NOTES.

I have not given here a description of the workshops, gardens and farms of the Borstal Institution which were visited, as there were on a scale far beyond the present resources of Kenya.

Feltham for instance produces large quantities of vegetables which not only supply the Institution but also other prisons: it also sells quantities of excellent bacon, and supplies many shoes for outside prisons. Borstal Rochester has similar activities with difference in the details.

The institutions erect their own buildings.

44. Reformatory School at Redhill.

This is an institution controlled by the Philanthropic Society, but assisted by Home Office grants, and contains 130 boys.

The maximum allowed is 150.

Offenders who have reached the age of 12 but have not reached the age of 16, and who have been convicted of an offence punishable, in the case of an adult, with penal servitude or imprisonment, are eligible for this and other reformatory schools.

It is open to the Court trying a case to select any certified school the managers of which are willing to receive the juvenile concerned.

45. Education.

Boys between the age of 12 and 14 must, in accordance with the Education Act, receive education to the extent of 10 sessions of 2 or 3 hours duration per week of which at least 6 sessions must be spent in the school room.

Between 14 and 16 they spend at least 6 sessions in the class-room and over 16 they must spend at least 2.

46. Period of detention.

This lasts usually for 3 years, though a boy may be discharged at an earlier date if the warden thinks fit.

After-care continues until the boy has reached the age of 19 or for a maximum of 4 years.

The average age of boys on admission during 1930 was 14 years and 9 months and on discharge 17 years and eight months. Decisions as to the discharge of the boys are made by the Headmaster but must be confirmed by the School Board.

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It is open to the Court trying a case to select any certified school the managers of which are willing to receive the juvenile concerned.

45. Education.

Boys between the age of 12 and 14 must, in accordance with the Education Act, receive education to the extent of 10 sessions of 2 or 3 hours duration per week of which at least 6 sessions must be spent in the school room.

Between 14 and 16 they spend at least 6 sessions in the class-room and over 16 they must spend at least 2.

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After-care continues until the boy has reached the age of 19 or for a maximum of 4 years.

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47. Supervision

A feature of this school is that boys, though they have been convicted of penal offences, move about after the 1st 3 months within the school grounds free and unescorted. After a time they are allowed to go anywhere alone but they must always have a written pass. The school grounds are about 1 square mile in extent and are not enclosed by a wall or fence.

48. Houses

The boys are divided up into 3 houses which stand at some distance from each other. One house is reserved for the junior lads.

49. Grades

A boy on admission has no grade for about 6 months. After 6 months he enters the 3rd grade, and thence to the 2nd and 3rd grades after 6 monthly periods.

Pocket-money is given beginning by 2d. with the 3rd grade and ending with 8 in the 1st group leaders getting 3d. and house-captains 6d. extra.

Overtime pay is also given to boys when harvesting or milking.

Promotion to each grade is decided by the Warden or Headmaster. House-masters have duties as instructors and cannot give the individual attention to the boys that is a feature of the Horstal schools.

This appears to centralise everything too much in the hands of the Warden.

50. GRADES

The system of groups and group-leaders is in vogue here. 10 to 15 boys go to a group. The group-leader supervises and leads the work of cleaning up etc. There is also a house-captain.

51. Clothing

Boys are dressed in clothing suited to their occupation but never in any distinctive uniform. The same applies to the house-masters and instructors.

52. Home Leave Home leave up to 14 days may be given annually, usually in 2 separate lots. In-addition a boy may be allowed away for a night on exceptional occasions e.g. funerals of near relatives but he must be proved trustworthy.

In all such cases the home must have been approved and the boy must have been in the school 6 months and received a good report.

During 1930 80 boys had a week or a fortnight on holiday at their homes and only one boy failed to return.

Friends and relatives may visit the boys at any time.

53. Routine The daily routine is described below in the Headmaster's own language:-

"Daily Routine (Weekdays)

Hours of rising.

- 6 a.m. senior group of milkers, horseboys
- 6.30 all elder boys
- 7.0 juniors (who live in separate house)

On rising all boys are given a small cake of a substantial nature. They proceed to wash and dress.

- clean down the houses where they live
- go out to light furnaces, clean stables, cow byres, etc
- open up their shops and do odd jobs

N.B. The junior boys do NOT go out before breakfast.

Breakfast 8.15 taken in the houses
preceded by washing
Roll call and marking the Daily Register.

Prayers 9 a.m. in the School Chapel.

After Prayers from 9.15 " "
Warden inspects all boys on parade at Chapel door.
Sees boys brought before him by Masters. "
Hears complaints.
Assigns any duties which fall outside routine.
Boys for Sick Parade fall out and go to Surgery.
All other boys proceed to an adjoining place where they
either do Physical Jerks 15 mins
or Boot and Clothing Parade is held
They then break off for School Classes or for their trades.

School Room boys.

These are, roughly speaking, boys in their first year.

9.40 to 12.30	Class Room Instruction.
12.30 to 1.30	Dinner hour.
1.30 to 2 p.m.	Play, visits to the tailor's shop for small attentions, visits to the surgery.
2 p.m. to 4.30	Class Room Instruction.
4.30 to 5 p.m.	Cleaning up class room, washing hands and so on.
Tea 5.15	

An interval of 10 mins. is allowed as a "breather" in the morning and afternoon sessions. A manual training session is provided one afternoon.

Work Boys.

These are boys now being treated as young workmen after concluding their educational course.

9.40 to 12.30	Attendance at the various Training Shops or the Farm departments for work that forms practical training in the course of which lectures are given, classes held, notebooks filled, etc.
12.30 to 1.30	Dinner hour.
1.30 to 5 p.m.	Continue work.
5 p.m.	Wash and proceed to dining hall for tea.

Thus the day's work ends at tea time and the evening programme follows.

Saturday Programme

to 9.40 as on other week days.

For Trade boys the day goes on as usual except that work ceases at 1 o'clock instead of at 12.30 p.m. Dinner is therefore half an hour later. School room boys do not attend Class room this day. They are occupied in general cleaning up of the grounds and opportunity is taken to place them in various training departments to discover what the trade is for which he is most suited. Carpenter, Engineer, Farm bailiff and other officers all take in a few of these boys for this preliminary course.

For all boys the afternoon is free for games, for walking out according to a rota.

Weekday evening programme.

In summer.

Tea ends at 6 p.m. Boys are then sent back to their Houses under their own boys leaders and find their House Master or his assistant ready for them. They play games either of a friendly character among themselves or organized inter-league games or matches against visiting teams. They go swimming, attend to pets, etc. Twice a week they have a hot bath. Once a week at each House the repairer calls and mends. There is letter-writing, reading, issue of linen, etc. Bed-time is at 8.30 for Juniors and 9 for seniors, preceded by a light supper (a slice of cake or something of that sort) and brief family prayers (5 mins.) taken by the Housemaster.

Hobbies are encouraged for the evening hours.

In winter.

Tea as usual.

The evening will then be filled up with quiet indoor games.

Hot baths thrice a week.

Each House is allowed the use of the Gymnasium for a night for handball and other games requiring a large room. There are frequent concerts in the dining hall and once a week a lecture of an educational character, with Lantern (we have no cinema of our own) but these lectures are meant to be entertaining as well as instructional. Many visiting lecturers came and talk of travel, animals, etc.

We intend to send a few selected boys this winter to the local Evening School for advanced education.

This

This is a beginning only. We also desire when the funds permit to have evening tutors in the school for the continuation of the education of senior boys who are at their trade training all the day. But lack of funds has been the obstacle so far. It means engaging Visiting Tutors.

About once a month a House can arrange to go out as a body with their master to attend the local Cinema but they pay for themselves out of their pocket money."

54.
Games and
Physical
Training and
Recreation.

For games purposes the boys are grouped according to a particular colour and not by houses i.e. there is no inter-house competition, as in the Borstal schools. The object of this system is to give all the boys and not only the expert boys a place in a team.

Matches are played against other schools and local teams.

Physical
Training.

Every boy not discharged from the class-room has one hour a week of physical training under the drill Sergeant and one hour of drill.

In addition 10 minutes of physical training are given every week-day morning after prayers.

During the winter months boxing classes are held one evening a week.

Recreation.

Lectures and entertainments are arranged by house-masters in the evening.

55.
Industries.

There is a well-equipped metal work-shop, run by an efficient instructor. Some of the metal parts made by boys without assistance are remarkable.

The same applies to the farm work where the boys are trained with similar efficiency. Farm products are sold. Carpentry is also taught.

Most of the work done in the shops is for the repair

of plant on the Estate.

The training in the various industries appears to be good as the Warden informed me he had little difficulty in obtaining employment for the boys on discharge.

66.
After-care

This struck me as the best feature of the School. It continues for 4 years after the boy leaves or when he has reached the age of 19, but touch is kept in some cases for a much longer period. The Warden himself arranges for the boy to get employment, keeps in touch with him personally and visits his home.

The excellent training given to the boys in workshop and farm for which the School appears to have a reputation, facilitates the getting of employment.

Out of the 48 boys discharged in 1930, employment was found for 36. The balance was disposed of as follows:-

- 2 sent to Junior Schools
- 1 " " ship school for sea training
- 1 " " another school (for disciplinary purposes)
- 1 " " Asylum
- 4 " " Institutions for feeble-minded
- 1 died
- 1 sent to Borstal.

It is stated in the Warden's report that 90% of the boys do not re-appear in a Police Court.

During the 6 years ending with 1930, 207 boys passed out of the School, of whom 4 have since been in prison, 12 have been bound over for minor offences and have not since relapsed and 2 have gone to Borstal.

57.
Records

A number of files containing boys' records were examined. These included all papers and correspondence regarding

regarding each lad from his admission up to date.

A summary of the main facts and papers regarding each boy's history is also kept in a separate Register.

58. Church Farm School, East Barnet.

This was visited on Thursday the 8th inst. It is financed partly by private and partly by Government funds and contains some boys who have not, on admission, reached the age of 14, and who have been charged with, but not convicted of penal offences or who have been consigned there to prevent the committing of crimes.

The boys move about quite freely in the carrying out of the routine, and appeared to be happy and healthy.

Staff

The staff consists of a headmaster and matron, 3 school-masters, a farm bailiff and a general assistant and a number of household servants.

59.
Organization
and routine

Full-time school education is given, in accordance with the law, until 14 years of age, followed by half-time school work and half-time training under the instructional staff after 14.

The training given outside the educational class-room consists of -

- wood-work
- metal-work
- gardening and bee-keeping
- farming.
- cooking and baking.

In the farming industry advantage is taken of the course of lessons given by the Imperial Broadcasting Bureau, as well as of the lessons on History, Geography,

Music.

Music, Rural Science, Hygiene and English Literature.

60. During 1931, 37 boys left the school and left to take up the following occupations:- farming 9, gardening 2, metalwork 4, plumbing 1, cabinet-making 5, carpentering 1, chef's assistant 1, Merchant Service 1, house and garden 1, page-boy 2, tailor's apprentice 1, shop-assistant 5, factory worker 3, while one boy was transferred to another Institution. Specimens of work done are exhibited at the Home Office School's Exhibition at the Royal Horticultural Hall, and prizes are given by the School Committee at Christmas to boys for good work done during the year.

61. Social organisation The School is divided, for purposes of organization, into 4 houses, each under a teacher, who has the assistance of 2 boy prefects. Rivalry in sports, cleanliness and good behaviour are encouraged between the houses, and success is rewarded by marks allotted to the house and not the individual, and by a Cup.

Pocket-money depends on the marks gained. A number of boys invest it in the Post Office Savings' Bank.

The system is designed to promote esprit de corps and discipline, and appears to achieve its object.

62. Sports and Recreation The 4 house system is specially useful in the organization of sports and recreation. Rivalry in games and the spirit of playing for the side are encouraged by inter-house competitions in Football and Cricket.

In July the boys all went to camp on the Broads and remained there for 3 weeks.

Home leave is granted wherever possible to the lads

both

both at Whitsun and Christmas and arrangements are made for boys to attend concerts, amateur dramatic shows, etc.

A Scout troupe and pack have been started and co-operate with other local troupes in games and exercises.

63. After-care

During the year boys who have left are visited at least twice by the Headmaster or other members of the staff and in addition 'local friends' for whom the Headmaster arranges ^{to} keep in regular touch with them.

In addition an Association of old members of the School has been formed, which is managed by a local member of "Too H".

Regular correspondence is maintained with those who have gone abroad and old school-boys are encouraged to revisit the School whenever they wish to do so.

64. Conclusions as to whether it is practicable to apply the method practised in Borstal and other Reformatory institutions in Kenya.

A sketch has now been given of the main methods of Borstal and other Reformatory Schools and in considering how far they are applicable to Kenya it is right to ask the following questions;

(a) are conditions in Kenya suitable to their application?

(b) is African human nature such that reformation of boys by the cultivation of good qualities and the gradual elimination of undesirable ones is practicable? I believe the answer to both questions to be in the affirmative.

In regard to (a) an objection which might be put forward is that mentioned in paragraph 43 of the report of the Committee appointed to enquire into the prevalence

of crime in Nairobi. It is doubtful whether the objection is strong enough and it could be met if found to be a serious obstacle by the removal of the Reformatory elsewhere from its present site.

In regard to (b) officers with close personal acquaintance of the African will agree that he possesses in undeveloped form many of the qualities which go to make up of the average European lad, and that where he lacks these qualities, his plastic nature is such that they can be grafted on to him provided that good influence is continuously and intelligently exerted.

65. The main object pursued in Borstal Institutions viz. by gradual development of the good to eliminate the evil, is being achieved so successfully in England even with seemingly hopeless material that there are good grounds for believing that in the case of the more malleable African results should be even more gratifying.

The Committee appointed to report on the Juvenile Offenders Bill considers (vide paragraph 48 of their report) that "the Kabete reformatory is rather of the nature of a prison than of a school that there is little if any reformation and quite inadequate education".

Though it is not stated that this Committee concur with the view of Father Bernhard as to the number of reclaimable boys in the Kabete Reformatory, they have quoted it as being authoritative on the question and there is little doubt that it substantially represents the truth.

The methods practised in English Borstal and other Reformatory institutions for the formation and strengthening

strengthening of character, for the delegation of responsibility, and the repose of trust in an individual when his progress justifies, it does not differ in principle from those followed in the education of the African in the School or on the farms. Attention is concentrated on the development of the good qualities that appear or may be dormant in each individual so that he may be strong enough to stand on his own legs when he has to face life again on discharge.

66. If the writers view that the English Reformatory methods are applicable is accepted, the steps necessary to effect the change must be considered. The first point that arises is whether it is advisable to adopt the English classification of Reformatory Schools as detailed in paragraphs 4, 5 and 6 above. Here the earlier physical development of the African must be taken into account, and it would be wise to follow the classification advocated by Mr. A. Paterson, Commissioner of Prisons when reporting on the means required for the prevention of crime in Burma.

It

It is therefore recommended that the following classification be embodied in the Ordinance:-

Recommendation I.

(a) Preventive (- English Industrial) Schools for unconvicted boys under 14 living under such circumstances as would ordinarily conduce to crime, where they may be kept till the age of 16. This category would also include boys under 14 charged with, but not convicted, ^{of} penal offences.

(b) Reformatory Schools for boys under 14 also have been convicted of penal offences punishable with imprisonment, where they may be kept till the age of 16.

(c) Training Schools (run on the general lines of the Borstal Schools) for young persons convicted of penal offences, between the ages of 14 and 19, where they may be kept until 21.

If this Recommendation is accepted, it will involve an amendment of the definition of the term "young person" in the draft bill.

The conditions in Burma, according to Mr. Paterson's report appear to be somewhat similar to those that exist in Kenya today; and the young Burman described in those pages, seems to resemble the Kenya native in character and temperament."

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