

1931

Kenya

No. 17099

SUBJECT

CO 533/408

Legitimacy Ordinance.

Previous

16239/30.

Subsequent

1 of hon. member 84 \_\_\_\_\_ 7 February  
The copy of bill to amend legitimacy ordinance and  
extract from proceedings of legislative council at second  
reading of bill. In view of arguments of unofficial  
members, requests further instructions before bill is  
resubmitted to legislative council.

The amendment to § 3 of the main Ord  
is the important point. The others are trivial  
to be typical of Kenya to want  
to be peculiar.

I have some sympathy with  
the arguments of Elected Members  
but the arguments in favour of  
conformity as in the British  
Empire in a matter of this  
sort seem to me very strong.

\* Such the differentiation  
between fornication &  
adultery on grounds of  
public policy & otherwise  
1970

There seems to be a  
discrepancy between X in  
Sir J. Risley's Minutes of 25.7.20  
or 16239/20 & X in Capt.  
Schwartz's speech enclosed in  
this despatch.

① The position in  
Scotland is as  
I stated there

J.S.H.  
18/3/31

? to the John Risley  
for obvious

Plantain

I am sure Sir J. Risley 6.3.31  
will attach due weight to the local exigence  
based upon  
Gaboronean ~~moderate~~ "desecrated"

1 of his house 84 \_\_\_\_\_ 4 February 2  
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 J.S.H.  
 18/2/51

? to Sir John Rieley  
 for views.

Platinum

I am sure Sir Rieley 6.3.51  
 will attach due weight to the local experience  
 & precedents based upon "devoted"  
 "dedicated"

I am not concerned to discuss the comparative demerits of fornication and adultery from the point of view of morality, but as indicated in our despatch of 25 August last, it is contrary to public policy to pass legislation which may conduce towards infidelity on the part of married men and even a husband's possible interest in his wife's death.

It is also contrary to public policy to enable a child born of adulterous intercourse to be legitimated in Kenya with the prospect that in England and Colonies which have adopted the English Act such a child would probably be held to be and remain illegitimate.

I think this would certainly be the case if the legitimation is based on the father being merely "resident" in the Colony, as provided in sec 3(1) of the Kenya Ordinance - see passage in A's speech which I have marked "A" - and even if "domiciled" were substituted for "resident" the legislation could not be free from doubt.

It is therefore not in accordance either with public policy or with the real interests of such a child that there should be any possibility of its being legitimated in Kenya and illegitimate elsewhere.

J.S.A.

28/3/51

Yes  
K.R.

Yes I do  
K.R.

L. J. C. Riley

5  
I have stated it that we are not referring to the lines of your committee - I request that the amendment to our exception has been taken in Kenya and we proceeded with - fact what about "resident" in § 3(1) - are you sure? That was not queried when the Ord. was previously under review here - The English Act has "domiciled" in England or Wales" (§ 1(1)) - fact La Beche has taught me to regard the word "domicile" with suspicion & even terror! May we call it that you do not wish to suggest now that "domiciled" should be substituted for "resident" in the Kenya Ordinance? But as a matter of interest, why does the Kenya Ordinance say "resident" & not "domiciled"? See Pakenham 22.5.51

I will refer to what Mr. A's says of "A" in his speech and insist on substitution of "domiciled" for "resident" as well as the insertion of sec 1(2) of the English Act - If they decline to do this the

Admission should be disallowed

H.B. 25/3/31

? Off course as advised by Sir Risley  
A.D. Halliwell  
26.3.31

The <sup>draft</sup> must of course go forward, and it need not be quite so desirably worded as the previous dispatch which gives absolutely no guidance as to the subject matter.

W.C.S. 24.3.31

I am not happy about the proposal to impose this condition which in my opinion the Kenya Govt. has put out. I feel that, in the interests of the innocent child, every opportunity of securing a legitimacy status should be taken. I quite appreciate the point of Sir J. Risley about the public interest but I submit that a good case could be put up for dispensing with the clause in the greater public interest. Public opinion here is advancing fast in these matters and I think there is good reason to believe that in any revision of the Act here this change would be made. I would be glad if this matter

Could be reconsidered by our legal advisers as I think we should support the Kenya Govt's proposition in view of possible.  
T.S. 27.4.31.

Mr. Duncan

I have examined the legislation of the Dominions, Colonies, etc. on the subject of the legitimation of children by the subsequent marriage of the parents and the position in regard to adulterine children appears to be as follows:-

Dominions

The legitimation of adulterine children is barred in all Dominions with the exception of the states of Tasmania and Western Australia. The law in these territories (Act No.3 of 1905 in the case of Tasmania and No.44 of 1909 in the case of Western Australia) does not appear to prevent the legitimation of adulterine children.

Colonies

Similarly the legitimation of such children is barred in all colonies, etc. where legislation on the subject has been passed. In the case however of Fiji (No.3 of 1910), British Honduras (Chapter 102) and Jamaica (No.34 of 1909) the limiting clause in each case (sec.5, sec.5 and sec.4 respectively) is so worded that if <sup>any</sup> legal impediment to the marriage of the parents was removed by the time the child was born e.g. by the death of the man's wife or the woman's husband as the case may be or by successful divorce proceedings, it would seem that the child of even an adulterous union could be legitimated.

Mandated Territories

Sec.299 of the Samoa Act (New Zealand Act No.16 of 1921) permits the legitimation of all children by the subsequent marriage of their parents.

S.H. P...  
8/11  
D.D.

See also Ceylon Act No. 19 of 1907 section 27

Should see how it differs from the Act in Fiji.

Mr. Bigham.

We discussed this.

I agree that "domiciled" should be substituted for "resident" in Section 3(1) of the Ordinance; but, with all respect to the opinion expressed by Sir J. Risley, I really cannot see that it would be contrary to public policy to omit the Section, which provides in effect that adulterine children cannot be legitimated. There is an overwhelming preponderance of opinion in Kenya in favour of enabling the innocent child of adulterous intercourse to be legitimated by the subsequent marriage of the parents, and I am bound to say that, in my view, this seems to outweigh other considerations, such as, for example, the allegation that it might conduce towards infidelity on the part of married persons, or give one of them a possible interest in the death of the other.

Further, the laws in force in certain parts of the Empire, to which Mr. Thompson refers in his minute to me of 28.4.31, appear to show that the omission from the Kenya law of the Section in question would not be so startling a legal innovation as was apparently at first supposed; and when it is also remembered that nothing would or could be said if a self-governing Dominion to-morrow passed a law legitimating adulterine children, the case for disallowing Kenya's Ordinance if the Section is not inserted seems to me almost to fall to the ground.

H. Duncan.

1.5.31.

All that I have done in regard to this matter so far is to initial the draft based upon previous minutes. If "domiciled" is substituted for "resident", I do not think that any serious conflict with jurisdiction would arise from the divergence which Kenya desires.

Upon the general question of the inclusion or omission of these children, I can only say that I do not feel any excitement about it one way or the other. I think the sort of thing which the Secretary of State should consider is whether, when Parliament has (presumably after careful consideration) formulated a definite policy on the matter, it is desirable that Colonies for which he is responsible should depart from that, and adopt a more advanced attitude.

H.B. 1.5.31.

Mr. Bigham

Section for decision - if it is decided to depart from Sir J. Risley's advice, the opt. present see, revised.

Acceptance  
2.5.31

Mr. S. Wilson

Mr. Skills  
Unfortunately, in presence of a few undisciplined people in Kenya a quite undesired moral reputation, and a provision which would have involved a certain amount of public comment in relation

(to the extent of the innocent child)  
H.D.

(except those under the heading "Colonies")  
H.D.

relation to Kenya.

As I should certainly have  
no objection to accepting the  
Kenya proposal - I should  
as of anomalies could be  
numerous:-

A's father's wife brings an action  
for divorce: A can be legitimated.

B's father's wife does all for the  
accommodation: B remains  
illegitimate.

C's father is a settler, "domiciled";  
C. can be legitimated.

D's father is the manager of a  
single plantation - "resident";  
D. remains illegitimate.

W.C.S.  
24.5.31

Sec of State

(through Dr Shields)

I find no little difficulty in  
ministry this file. I am inclined  
to agree with Dr Shields and  
the officials in taking the view  
that the interests of the innocent  
child should come first; and

at the same time I think it is a  
that Kenya should not conform  
the general policy, as there is  
plenty of people who will  
be ready to criticize the Kenya paper.

On the whole, I am of opinion  
it would be better to give way  
the inclusion of the new sub-  
(2) of Section 3: and to  
contact with "resident"  
first sub-section being a  
to read "domiciled".

G.H.C.

5.5.31

My views are as expressed in the  
minute. I rejoice in being able to  
the Kenya Govt. as progressive and  
T.S. 6.5.31

I agree with Sir D.C.

P 7/5

2 No. Gov. 334 - 1. Approved - 20/5/31

W.C.S.

3 Copy of Legislative Regulations 1931,  
extracted from Official Gazette No. 23 of  
5 May 1931

Legislated for record in accordance with  
minutes of 10/6/31 or 17/5/31.  
Shows  
1/7/31

and

4 Sec. 3559 — 18 Sept. 1930.  
Two 2 unnumbered or 12 printed  
copies of Legislative (Amendment) Order,  
1931, together with Legal Report.

Share copies  
of Order to lobby

no. 1 or 1624/30

When the 1930 Order was sent  
home the following points were  
taken:-

1. § 3 should be amended by  
the addition of a section corresponding  
to § 1(2) of the Imperial Act.  
The local Govt. drafted this  
very much as the 1930 Order was  
this time to save way. He suggested  
however the substitution of the  
word "dominated" for the word  
"undated" in § 3(1). This  
amendment has now been made.
2. Two small amendments should be  
made in § 4(1). These have not been  
made for the reasons given in para. 2

XI

of no. 1. The 1930 Order (1930) is 7  
lines long. The  
substitution of a proviso to § 4(1).  
This Order came out three  
amendments.  
? now carry on 1930 Order & the as § 3.

15 x 31

Procedure should be the decision in no. 2.

his Report - Wray  
his best observations as to Ordinance  
is in the form approved by the S.F.S.  
at minute 2 of this file.  
X above. With a very good reason.

J. O. Roberts

17.11

J. O. Roberts

J. O. Roberts

18/11

at all

Letter to Mr  
16255

16255

16255

To Gov 786 (4 Amend) G/320 NOV 1931



6. Govt. Notice No 6074 of 1933.

Legitimacy Rules 1933.

(Requ. for record vide minute of 21 Oct 33 on 3042/33)

(14/1)

GOVERNMENT NOTICE No. 606

**THE CUSTOMS MANAGEMENT ORDINANCE, 1920.**

**ORDER.**

IN EXERCISE of the powers conferred upon him by Section 47 of the Customs Management Ordinance, 1920, His Excellency the Governor has been pleased to prohibit the importation into the Colony of safety, toy, or alarm pistols which, in the opinion of the Commissioner of Customs, are capable of being converted into lethal weapons.

By Command of His Excellency the Governor.

Nairobi,

18th September, 1933.

A. DE V. WADE:  
Acting Colonial Secretary.

GOVERNMENT NOTICE No. 607

**COLONY AND PROTECTORATE OF KENYA.**

Rules made by the Rules Committee appointed under the Civil Procedure Ordinance, 1924, under section 4 (8) of the Legitimacy Ordinance, 1930, No. XXIII of 1930.

**RULES OF COURT No. 2 of 1933.**

1. These Rules may be cited as "the Legitimacy Rules, 1933" and shall come into operation on the 26th day of September, 1933.

2. In these Rules unless the contrary intention appears—  
"the Ordinance" means the Legitimacy Ordinance, 1930;

"the Registrar" means the Registrar of His Majesty's Supreme Court of Kenya and includes a District or Deputy Registrar; and

"the Court" means the Supreme Court of Kenya.

3. An application for legitimation shall be made by petition to the Court intituled "In the matter of the Ordinance and in the matter of an application for a declaration as to the

legitimacy of the person sought to be legitimated. The petitioner shall be the person applying for a declaration of legitimacy or in the case of an infant his or her parent, guardian or other person appointed by the Court as guardian *ad litem*.

4. The petition shall be filed in the Court in accordance so far as practicable with the practice relating to other petitions filed in the Court.

5. The person applying for a declaration of legitimacy or in the case of an infant his or her parent or guardian or guardian *ad litem* shall be the petitioner and the Attorney General of the Colony and Protectorate of Kenya shall be the Respondent.

6. Where an infant is petitioner by a guardian *ad litem* the petition shall be served on the parent or parents of the infant if alive and procurable or on the person or persons having the actual custody of the infant, but the Judge may in his discretion dispense with service on any of those persons and may in his discretion order the petition to be served on any other person or persons.

7. Every petition, notice or document shall be served in the manner prescribed by the Civil Procedure Rules, 1927, or any Rules for the time being in force relating to civil procedure.

8. The petition shall be verified by affidavit paragraph by paragraph. There shall be annexed to the affidavit copies of all certificates, consents and other documents proper for proving the allegations in the petition, and the affidavit shall contain a deposition as to the absence of collusion. The original certificates, consents and other documents shall be exhibited at the hearing of the petition.

9. Evidence shall be by affidavit unless the Judge thinks proper to direct evidence to be given orally which he shall have power to do. In a case in which it is necessary to appoint a guardian *ad litem* the application for appointment of such guardian shall be in the form of a summons returnable in Chambers, supported by affidavit to which shall be annexed a copy of the petition. When the pleadings are in order the Registrar shall, subject to the provisions of section 4 (4) of the Ordinance, appoint a day for the hearing of the petition and shall give notice to all parties of the day so appointed.

10. The Judge may refuse to make a legitimacy order unless all parties attend before him, but he shall have power

in his discretion to dispense with the attendance of any party and may direct that any of the parties shall attend separately and apart from the others.

11. If it appears that the petitioner or any person on his behalf has made a previous application under the Ordinance and that such application has been refused the Court shall not make a legitimacy order unless satisfied that there has been a subsequent change in the circumstances.

12. All petitions under the Ordinance shall be heard in Chambers unless the Judge otherwise orders.

13. Every legitimacy order shall be drawn up by the Registrar and served on the Registrar General within seven days of its date either by exhibiting to that officer the original order or by leaving with him a certified copy thereof under the Seal of the Court and the signature of the Registrar or by forwarding a certified copy by registered post.

14. The Judge may make such orders as to costs as he shall think fit and may direct that all the costs of a petition under the Ordinance shall be borne and paid by the petitioner or where the petitioner is an infant by his parent or guardian or such other person as may apply on his behalf for an order under the Ordinance.

15. The Court fees payable on proceedings under the Ordinance shall be as follows:—

On filing a petition for a legitimacy order: Sh. 60.

Other fees shall be the same as those payable under the Rules of Court for the time being in force relating to civil matters in the Supreme Court.

Dated this 12th day of September, 1933.

J. W. BARTH,  
Chief Justice.

S. J. THOMAS,  
Puisne Judge.

A. DE A. MACGREGOR,  
Attorney General.

E. K. FIGGIS,  
Advocate,  
Member of the Law Society of Kenya.

G. G. ATKINSON,  
Advocate,  
Member of the Mombasa Law Society.

*Kenya Proclamations, Rules and Regulations, 1939*

GOVERNMENT NOTICE No. 608

THE KENYA AND UGANDA RAILWAY ORDINANCE, 1927.

THE KENYA AND UGANDA RAILWAY REGULATIONS, 1933.

IN EXERCISE of the powers conferred upon him by section 82 of the Kenya and Uganda Railway Ordinance, 1927, the High Commissioner for Transport for the Colony and Protectorate of Kenya and the Protectorate of Uganda has been pleased to make the following regulations:

1. These Regulations may be cited as "The Kenya and Uganda Railway Regulations, 1933".

2. No person shall spit upon the floor or upon any part of any carriage or vehicle upon the Railway or upon the platform at any station, or upon the floor, side or wall, of any hall, office, waiting room, refreshment room, public room, or public passage at any station. Any person continuing so to spit after having been requested to desist by any servant or agent of the High Commissioner, may be removed from such carriage or vehicle or from the railway by or under the direction of any such servant or agent, without prejudice to any penalty incurred by the infraction of this Regulation.

3. Any person offending against these Regulations shall be liable to a penalty not exceeding forty shillings for a first offence, and not exceeding one hundred shillings for any subsequent offence.

4. These Regulations shall come into force with effect from the 15th October, 1933.

By Command of the High Commissioner for Transport.

Nairobi,

14th September, 1933.

C. W. G. WALKER,  
Secretary to the High Commissioner  
for Transport.

KENYA.

No. 559.



RECEIVED  
12 OCT 1931  
COL OFFICE

GOVERNMENT HOUSE,  
NAIROBI,  
KENYA.

18<sup>th</sup> September, 1931.

Sir,

2  
With reference to Lord Passfield's despatch No. 334 of the 20th May, regarding a Bill to amend the Legitimacy Ordinance, I have the honour to forward herewith two authenticated and twelve printed copies of an Ordinance intitled "the Legitimacy (Amendment) Ordinance, 1931," which duly passed its third reading in the Legislative Council on the 19th August, 1931, and to which the Governor assented in His Majesty's name on the 8th September, 1931.

A copy of the Legal Report by the Attorney General is also enclosed.

I have the honour to be,

Sir,

Your most obedient, humble servant,

H. J. Martin

GOVERNOR'S DEPUTY.

THE RIGHT HONOURABLE J. H. THOMAS, P.C., M.P.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET,  
LONDON, S.W. 1

20 NOV 1931  
6/13  
Cmsword 786

LEGAL REPORT

THE LEGITIMACY (AMENDMENT) BILL, 1931.

The amendment to section 3 (1) of the Principal Ordinance is necessitated by the omission from the Kenya law of the provision, appearing in the English Act, which debars from legitimation a child born of adulterous intercourse.

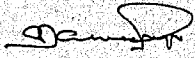
As the law stands it is possible for such a child to be legitimated if the father is merely resident in the Colony, and it is considered desirable that domicile should be a pre-requisite to legitimation. The proposed amendment effects this purpose.

The amendments to section 4 of the Principal Ordinance are formal in character.

The proposed amendments to section 5 bring the Ordinance into line with the law in England.

In my opinion, His Excellency the Governor may properly assent to this Bill in the name and on behalf of His Majesty.

Nairobi,  
19th August, 1931.

  
ATTORNEY GENERAL

No. XXVI.

12  
1931.



Colony and Protectorate of Kenya.

IN THE TWENTY-SECOND 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 8<sup>th</sup> day of September  
1931.

J. BYRNE.

Governor.

AN ORDINANCE TO AMEND THE LEGITIMACY  
ORDINANCE, 1930

13

No. 26 of 1931.

**An Ordinance to Amend the Legitimacy  
Ordinance, 1930.**

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 Legitimacy (Amendment) Ordinance, 1931," and shall be read as one with the Legitimacy Ordinance, 1930, hereinafter referred to as "the Principal Ordinance." Short title  
No. 23 of 1930

2. Sub-section (1) of section 3 of the Principal Ordinance is hereby amended by the substitution of the word "domiciled" for the word "resident" in the fifth line thereof. Amendment of  
section 3 (1) of  
the Principal  
Ordinance.

3. Section 4 of the Principal Ordinance is hereby amended as follows:— Amendment of  
section 4 of  
the Principal  
Ordinance.

(1) By the addition of the following proviso to sub-section (1):—

" Provided that the decree of the said Court shall not in any case prejudice any person, unless such person has been cited or made a party to the proceedings or is the heir-at-law or next of kin, or other real or personal representative of or derives title under or through a person so cited or made a party; nor shall such sentence or decree of the Court prejudice any person if subsequently proved to have been obtained by fraud or collusion."

(2) By the repeal of sub-section (6).

(3) By renumbering sub-sections (7) and (8) as (6) and (7).

Amendment of section 5 of the Principal Ordinance.

4. Section 5 of the Principal Ordinance is hereby amended by adding thereto the following as sub-sections (3) and (4) :—

"(3) Where property movable or immovable or any interest therein is limited in such a way that, if this Ordinance had not come into operation, it would (subject or not to any preceding limitations or charges) have devolved (as nearly as the law permits) along with a dignity or title of honour then nothing in this Ordinance shall operate to sever the property or any interest therein from such dignity, but the same shall go and devolve (without prejudice to the preceding limitations or charges aforesaid) in like manner as if this Ordinance had not come into operation. This sub-section applies, whether or not there is any express reference to the dignity or title of honour and notwithstanding that in some events the property, or some interest therein, may become severed therefrom.

(4) This section applies only if and so far as a contrary intention is not expressed in the disposition, and shall have effect subject to the terms of the disposition and to the provisions therein contained."

Passed in the Legislative Council the nineteenth day of August, in the year of Our Lord one thousand nine hundred and thirty-one.

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.

**G. BERESFORD STOOKE.**

*Acting Clerk of the Legislative Council.*

43

GOVERNMENT NOTICE No. 274.

THE LEGITIMACY ORDINANCE, 1930.

RULES.

IN EXERCISE of the powers conferred upon him by the Legitimacy Ordinance, 1930, His Excellency the Governor has been pleased to make the following Regulations :—

1. These Regulations may be cited as "the Legitimacy Regulations, 1931."

*Interpretation.*

2. In these Regulations—  
the expression "the Ordinance" means the Legitimacy Ordinance, 1930;

the expression "informant" means a parent of a legitimated child whose duty it is to give information with a view to the re-registration of the birth of such child;

the expression "the Registrar General" shall be taken to include the "Assistant Registrar General."

the expression "the Registrar" means a Registrar appointed to register births and deaths in any area.

3. The Registrar General shall supply a form of application for the re-registration of a birth (Form L.O. I) as set out in the Schedule hereto, to any person on request.

4. The application shall be filled in and signed by the informant and sent, by post or otherwise, to the Registrar General.

5. Where it appears to the Registrar General that the application is in order, the Registrar General shall direct the informant, or, if there are two informants, such one of them as the Registrar General may direct, to attend personally at the office of the Registrar of the district in which the birth took place within such time as the Registrar General shall specify and sign the register in his presence.

6. The Registrar General shall, if he is satisfied that the application is in order or otherwise, endorse on the face of the original application form the word "approved" or the words "not approved" as the case may be and shall thereto sign his name and shall append to his signature his official description.



GOVERNMENT NOTICE No. 273.

THE POST OFFICE SAVINGS BANK ORDINANCE.

RULES.

IN EXERCISE of the powers conferred upon him by the Post Office Savings Bank Ordinance (Chapter 95 of the Revised Edition), His Excellency the Governor has been pleased to make the following Rules.

1. These Rules may be cited as "the Post Office Savings Bank Rules, 1931", and shall be read as one with the Post Office Savings Bank Rules appearing on page 883 of the Revised Subsidiary Legislation.

2. The Postmaster General may issue a Home Safe to any depositor in the Post Office Savings Bank who has a balance of not less than three shillings in his account, and any depositor to whom a Home Safe has been issued shall not be entitled, unless the said Home Safe has been returned to the Postmaster General, to reduce the balance in his account to less than three shillings.

3. If the depositor to whom a Home Safe has been issued fails to return the safe if requested to do so by the Postmaster General or if he returns it in an unserviceable condition, the balance standing at the credit of such depositor may, at the discretion of the Postmaster General, be reduced by three shillings.

By Command of His Excellency the Governor in Council.

Isarobi,

This 24th day of April, 1931.

J. E. S. MERRICK,

*Clerk to the Executive Council.*

7. The Registrar General shall then forward the original application form thus endorsed to the Registrar and this shall be a good and sufficient authority for him to re-register the birth and in manner hereinafter provided.

8. (1) The Registrar shall cause the birth to be entered in the Birth Register, in the manner and form used in the registration of births. The particulars shall be entered in the Register of Births in columns 1 to 10 and shall be made in the presence of the informant, who shall sign the Register in column 11 of the entry in the presence of the Registrar.

(2) The Registrar shall cause to be appended to the signature of the informant in column 11 the description and address of such informant.

(3) The Registrar shall cause to be entered in column 14 the date upon which the entry is made in respect of an entry of the date of the birth of the child.

(4) The Registrar shall sign the Register in column 13 of the entry and shall append to his signature his official description and he shall enter in column 11 the words "on the authority of the Registrar General" and shall sign his name thereto and shall append to his signature his official description.

9. (1) In the case of an informant who, in the opinion of the Registrar General, is unable to attend personally at the office of the Registrar to sign the Register, the Registrar General shall cause to be sent to such informant a form of declaration (Form L.O. II) as set out in the Schedule hereto. Such informant shall make and sign such declaration in writing and the declaration shall be made before a judge, court, magistrate, notary public or person lawfully authorized to administer oaths and in the case of any person who is in any foreign parts out of His Majesty's dominions the declaration shall be made before one of His Majesty's consuls or vice-consuls. On completion the declaration shall be returned to the Registrar General.

(2) The Registrar General shall cause to be entered in the Register of the district in which the birth took place the particulars given in the declaration in the manner hereinbefore provided, notwithstanding that the informant is present and in column 11 he shall, if satisfied that there is no impediment which must prevent re-registration from being lawfully effected, write the name of the informant, as signed

in the declaration, followed by the description and address of the informant as stated in the written authority, and append the words "as per declaration dated ....." and the date on which the declaration was made and signed.

10. When it is made to appear to the Registrar General that no informant is living, then, if the legitimated person is an infant, his guardian may attend personally at the office of the Registrar General and sign the register in column 11 of the entry; and if the legitimated person is not an infant the Registrar General shall enter in column 11 the words "On the Authority of the Registrar General," and he shall sign this authority and shall append to his signature his official description in addition to signing the Register in column 13 as heretofore provided. Further he shall omit such words from column 14.

11. An entry or a certified copy of an entry of a re-registered birth under the Ordinance shall not be evidence of such birth or legitimation unless such entry purports to be made on the authority of the Registrar General.

12. (1) The Registrar General shall cause the previous entry of the birth to be marked in the margin with the words "Re-registered under the Legitimacy Ordinance, 1930, on ....." and add the date of the re-registration.

(2) Such marginal note shall be deemed to be part of such entry; and a certified copy of such entry shall include such marginal note.

13. Where application is made for a certified copy of the entry of the birth of a person whose birth has been re-registered the Registrar General shall have a discretion as to whether or not he shall supply such copy.

14. Where the necessary information for the purpose of re-registration is not furnished to the Registrar General within the time specified in paragraph 2 of the Schedule to the Ordinance, the following fee shall be charged:—

A fee of ten shillings payable to the Registrar re-registering the birth by the informant or other person making the application for re-registration.

15. In any case where it is desired to make application under the Ordinance in respect of a child whose birth took place in the Colony but has not already been registered, the

birth must first be registered as illegitimate in the ordinary manner. When such registration has been effected, application may then be made for re-registration under the Ordinance.

By Command of His Excellency the Governor.

Nairobi,

This 27th day of April, 1931.

J. E. S. MERRICK,  
for Colonial Secretary.

FORM L.O. I.

SCHEDULE I.

FORM OF APPLICATION FOR REGISTRATION TO BE FILLED IN BY  
INFORMANT(S).

To:—

The Registrar General,  
Colony and Protectorate of Kenya,  
Nairobi.

I/We being the \_\_\_\_\_ of a child born out of wedlock,  
father  
mother

hereby make application that the birth of the child be registered in accordance with the provisions of the Legitimacy Ordinance, 1930.

..... Informant.  
..... Informant.

(Note.—The following particulars must be filled in.)

Name and sex of child.....  
Date of birth.....  
Place of birth.....  
State if birth registered and where.....  
Full name and occupation of father.....  
.....  
Present address of father.....  
Full name of mother.....  
Present address of mother.....  
Date of marriage of parents.....

Place of marriage of parents.....  
 Status of father at the time of the birth of the child (whether  
 bachelor, widower or divorced person).....  
 Status of mother at the time of the birth of the child (whether  
 spinster, widow or divorced person).....

..... Informant.

..... Informant.

(Note.—A divorced person is a person either in whose favour  
 or against whom a decree absolute of divorce has  
 been pronounced.)

## FORM L.O. II.

FORM OF DECLARATION TO BE MADE BY AN INFORMANT, I.E. THE  
MOTHER OR THE FATHER OF A CHILD.(1) Full name of parent. I<sup>(1)</sup>.....(2) Address. of<sup>(2)</sup>.....  
make oath and say as follows:—(3) Date of birth. 1. That on the<sup>(3)</sup>..... day of..... 19.....(4) Place of birth. at<sup>(4)</sup>..... a male child was  
born of which I am the father and of which<sup>(5)</sup>.....  
mother.....  
..... is the father.  
..... mother.(5) Full name of other parent. born of which I am the father and of which<sup>(5)</sup>.....  
mother.....  
..... is the father.  
..... mother...... is the father.  
..... mother.2. That the birth of the said child was duly registered  
at<sup>(6)</sup>..... in the(7) Here state name of<sup>(7)</sup>.....(8) The certificate need not be attached if the child was born within the Colony and Protectorate of Kenya. A certified copy of the Birth Certificate<sup>(8)</sup> relating to the said child is attached hereto and is marked "A".

(6) Here state where birth was registered.  
 (7) Here state name of.  
 (8) The certificate need not be attached if the child was born within the Colony and Protectorate of Kenya.

3. That on the<sup>(9)</sup>..... day of..... 19.....  
 I was lawfully married to the said<sup>(10)</sup>.....

at<sup>(11)</sup>.....  
 (9) Date of marriage.  
 (10) Name of spouse.  
 (11) Place of marriage, whether in church or in a Registrar's Office.

That a certified copy of the Certificate<sup>(12)</sup> relating to the said marriage is attached hereto and is marked "B".

(12) The certificate need not be attached if the marriage took place in the Colony and Protectorate of Kenya.

4. That at the time of the birth of the said child I was under no legal impediment to prevent me from contracting a valid marriage with the said<sup>(13)</sup>.....  
 that is to say, at the time of the birth of the said child I

bachelor widower in whose favour  
 was a spinster<sup>(14)</sup> a widow a person against whom a decease absolute of divorce had been pronounced.  
 (13) Name of spouse.  
 (14) Erase where not applicable.

5. That at the time of the birth of the said child the said<sup>(15)</sup>.....

was under no legal impediment to permit him from contracting  
her  
he bachelor  
a valid marriage with me, that is to say, she<sup>(16)</sup> was a spinster  
widower in whose favour  
a widow a person in against whom a decease absolute of divorce had been pronounced.  
 (15) Name of spouse.  
 (16) Erase where not applicable.

6. That the statements contained herein are true to the best of my knowledge, information and belief.

Signature of Deponent.....  
 Sworn before me.....  
 Official Designation.....

(Judge, Magistrate, Notary Public or other person empowered to administer oaths. In the case of a place outside His Britannic Majesty's Dominions, His Britannic Majesty's Consul or Vice-Consul.)

## GOVERNMENT NOTICE No. 275.

## THE MERCHANT SHIPPING ORDINANCE, 1930.

IN EXERCISE of the powers conferred upon him by section 3 of the Merchant Shipping Ordinance, 1930, His Excellency the Governor in Council has been pleased to fix the fees mentioned in the Schedule hereto in respect of the survey of wireless telegraphy installation on ships.

The fees shall be paid to the Postmaster General for the public uses of the Colony.

The fees hereby fixed shall have effect from the 1st July, 1931.

By Command of His Excellency the Governor in Council.  
Nairobi,

The 24th day of April, 1931.

J. E. S. MERRICK,  
*Clerk to the Executive Council.*

## SCHEDULE.

*For the Survey of Ships' Wireless Telegraphy Installation :—*

|   | Sh. |
|---|-----|
| Ships under 500 tons net registered tonnage ...     | 30  |
| Ships from 500 to 1,000 tons net registered tonnage | 40  |
| Ships over 1,000 tons net registered tonnage ...    | 50  |

## GOVERNMENT NOTICE No. 276.

## CONFIRMATION OF ORDINANCE.

The Secretary of State for the Colonies has been pleased to notify that His Majesty's power of disallowance will not be exercised with respect to the undermentioned Ordinance (No. 51 of 1930):—

" AN ORDINANCE TO CONSOLIDATE AND AMEND  
THE LAW RELATING TO COLLECTIVE PUNISHMENT."

By Command of His Excellency the Governor.

Nairobi,

This 25th day of April, 1931.

A. de V. WADE,  
*for Colonial Secretary.*

C. O.

17099/31.



Mr. Allen. 12/5/31

Mr. Robinson 12/5/31

Mr. Gushie 15/7/31

Mr. Tomlinson

Sir C. Bottomley 15.5 f

Sir J. Shuckburgh

Sir G. Grindle

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

DOWNING STREET,

20 May, 1931.

*S/H Arnold*

Sir,

I have etc., to acknowledge the receipt of Mr. Moore's despatch

**DRAFT.**

KENYA

No. 334

Gov. Byrne.

(11) No. 84 of the 7th February with regard to a Bill to amend the Legitimacy Ordinance, 1930.

2. I note that the opinion of the Unofficial Members was against the inclusion of Clause 2 of the Bill which would make provision, similar to that existing in this country and other parts of the Empire, that nothing in the principal Ordinance should operate to legitimate a person whose father or mother was married to a third person when the illegitimate person was born. I note also that the Executive Council expressed themselves

as unanimously in sympathy with  
the attitude of the Unofficial Members  
on this point.

3. I have given careful  
consideration to the objections  
urged and, having regard to all  
the circumstances, I do not feel  
justified in insisting on the  
inclusion of Clause 2 of the  
Bill although its omission rep-  
resents a departure from the  
provisions of the <sup>Cylich</sup> ~~Imperial~~ Act.

4. In his speech on the  
second reading of the Bill, the  
Attorney General referred to the  
consequences arising from the  
fact that domicile is not an  
essential pre-requisite under the  
Kenya Ordinance to legitimation,  
and I consider it undesirable to  
enable a child born of adulterous  
intercourse to be legitimated  
in Kenya with the prospect that



in this country and other parts of the Empire which have adopted the provisions of the British Act such a child, would, as suggested by the Attorney-General in his speech, ~~on the 22nd November, 1930.~~

probably be held to be, and would remain, illegitimate. I am advised that this would certainly be the result if the legitimation is based on the father being merely a "resident" in the Colony as provided in section 3(1) of the Ordinance<sup>No 23 of 1930</sup> and I consider that that section should be amended by the substitution of the word "domiciled" for "resident" in line 5. Subject to this amendment I approve the re-submission of the measure to the Legislative Council.

5. I may add that I am advised that Captain Schwartz was incorrect

in suggesting in his speech that  
the provisions of canon law in  
Scotland are the same as the  
provisions of the Kenya Ordinance  
No.23 of 1930, since the law of  
legitimatio per subsequens  
matrimonium in Scotland, and other  
places where it exists apart from  
statute (i.e. under the civil and  
canon law) is subject to the same  
limitation as that embodied in  
Clause 2 of the amending Bill.

I have, etc.,

(Signed) PASSFIELD.



KENYA.

No. 34



GOVERNMENT HOUSE,  
NAIROBI,  
KENYA.

RECEIVED  
-2 MAR 1931.  
COL. OFFICE

7<sup>th</sup> February, 1931.

My Lord,

No. 2 on 16239/30

With reference to Your Lordship's despatch No. 648 of the 21st August, I have the honour to transmit, for Your Lordship's consideration, the accompanying copy of a Bill to amend the Legitimacy Ordinance, 1930, together with an extract from the Legislative Council proceedings of the 22nd November when the second reading of the Bill was withheld by me in the light of the representations put forward unanimously by the unofficial Members of the Council.

2. It will be observed that the Bill, as published for introduction into the Legislative Council, did not include the first two of the amendments to Section 4 of the Principal Ordinance, suggested by Your Lordship as a result of correspondence with the Home Office. The decision to exclude those amendments was made after my Executive Council had been consulted and had advised that it would be preferable to confine present amendments to those contained in the Trinidad Ordinance and not to introduce the further suggestions which it is understood have not yet been incorporated in the Imperial Statute. In Executive Council Captain Schwartz further dissented from the principle embodied in clause

*Amend 3314 - 20/6/31*

THE RIGHT HONOURABLE LORD PASSFIELD, P.C.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET,  
LONDON, E.C. 1.

2 of the Bill which had been inserted in view of the instructions contained in paragraph 2 of Your Lordship's despatch under reply.

3. In view of the arguments against the inclusion of Clause 2 of the Bill put forward by Captain Schwartze and Captain Kenealy and supported unanimously by other unofficial Members of the Legislative Council, and in view of the fact that when the Legitimacy Bill was put before Executive Council on 21st March, 1930, it contained as Clause 3(2) the clause in question and that on that occasion the members of Executive Council were unanimously of opinion that this clause should be deleted before the Bill was published for introduction into Legislative Council I referred the question again to my Executive Council, who expressed themselves unanimously in sympathy with the attitude of unofficial members in this respect. In the circumstances I shall be glad to receive Your Lordship's further instructions regarding the Bill before it is resubmitted to the Legislative Council.

I have the honour to be,

My Lord,

Your Lordship's most obedient, humble  
servant,

*John A. Macdonald*

ACTING GOVERNOR.

COLONY AND PROTECTORATE OF KENYA.



A BILL TO AMEND THE LEGITIMACY  
ORDINANCE, 1930.



Legitimation by subsequent marriage of parents.

Section 3 of the Principal Ordinance proposed to be amended:—

3. (1) Subject to the provisions of this section, where the parents of an illegitimate person marry or have married one another, whether before or after the commencement of this Ordinance, the marriage shall, if the father of the illegitimate person was or is at the date of the marriage resident in the Colony, render that person, if living, legitimate from the commencement of this Ordinance, or from the date of the marriage, whichever last happens.

Interest in property of spouse and issue of legitimated person.

(2) The legitimation of a person under this Ordinance does not enable him or his spouse, children or remoter issue to take any interest in movable or immovable property save as is hereinafter in this Ordinance expressly provided.

Re-registration of births of legitimated persons.

(3) The provisions contained in the Schedule to this Ordinance shall have effect with respect to the re-registration of the birth of legitimated persons.

Section 4 of the Principal Ordinance proposed to be amended:—

Declarations of legitimacy of legitimated persons.

4. (1) A person claiming that he or his parent or any remoter ancestor became or has become a legitimated person may, whether domiciled in this Colony or elsewhere and whether a natural-born British subject or not, apply by petition to the Supreme Court praying for a decree declaring that the petitioner is the legitimate child of his parents, and the Supreme Court shall have jurisdiction to hear and determine such application and to make such decree declaratory of the legitimacy or illegitimacy of such person as to the Court may seem just; and such decree shall be binding to all intents and purposes on His Majesty and on all persons whomsoever.

(2) Every petition under this section shall be accompanied by such affidavit, verifying the same, and of the absence of collusion, as the Court may by any general rule direct.

(3) In all proceedings under this section the Court shall have full power to award and enforce payment of costs to any persons cited, whether such persons shall or shall not oppose the declaration applied for, in case the said Court shall deem it reasonable that such costs should be paid.

(4) A copy of every petition under this section, and of the affidavit accompanying the same, shall, one month at least previously to the presentation or filing of such petition, be delivered to the Attorney General, who shall be a respondent upon the hearing of such petition and upon every subsequent proceeding relating thereto.

**A Bill to Amend the Legitimacy Ordinance, 1930.**  
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 Legitimacy (Amendment) Ordinance, 1930," and shall be read as one with the Legitimacy Ordinance, 1930, hereinafter referred to as "the Principal Ordinance."

2. Section 3 of the Principal Ordinance is hereby amended by the addition of the following as sub-section (2):—

(2) Nothing in this Ordinance shall operate to legitimate a person whose father or mother was married to a third person when the illegitimate person was born, and by renumbering sub-sections (2) and (3) as sub-sections (3) and (4) respectively.

3. Section 4 of the Principal Ordinance is hereby amended as follows:—

(1) By the addition of the following proviso to sub-section (1):—

Provided that the decree of the said Court shall not in any case prejudice any person, unless such person has been cited or made a party to the proceedings or is the heir-at-law or next of kin, or other real or personal representative of or derives title under or through a person so cited or made a party; nor shall such sentence or decree of the Court prejudice any person if subsequently proved to have been obtained by fraud or collusion.

(2) By the repeal of sub-section (3).

(5) Where any application is made under this section to the said Court, such person or persons (if any) besides the said Attorney General as the Court shall think fit shall, subject to the rules made under this section, be cited to see proceedings or otherwise summoned in such manner as the Court shall direct, and may be permitted to become parties to the proceedings, and oppose the application.

(6) The decree of the said Court shall not in any case prejudice any person, unless such person has been cited or made a party to the proceedings or is the heir-at-law or next of kin, or other real or personal representative of or derives title under or through a person so cited or made a party; nor shall such sentence or decree of the Court prejudice any person if subsequently proved to have been obtained by fraud or collusion.

(7) No proceeding to be had under this section shall affect any final judgment or decree already pronounced or made by any Court of competent jurisdiction.

(8) The Rules Committee appointed under the Civil No. 3 of 1924. Procedure Ordinance, 1924, may make rules for carrying the provisions of this section into effect.

Section 5 of the Principal Ordinance proposed to be amended:—

5. (1) Subject to the provisions of this Ordinance, a legitimated person and his spouse, children or more remote issue shall be entitled to take any interest—

- (a) in the estate of an intestate dying after the date of legitimation;
- (b) under any disposition coming into operation after the date of legitimation;
- (c) by descent under an entailed interest created after the date of legitimation;

in like manner as if the legitimated person had been born legitimate.

(2) Where the right to any property, movable or immovable, depends on the relative seniority of the children of any person, and those children include one or more legitimated persons, the legitimated person or persons shall rank as if he or they had been borne on the day when he or they became legitimated by virtue of this Ordinance, and if more than one such legitimated person became legitimated at the same time, they shall rank as between themselves in order of seniority.

Rights of legitimated persons, etc., to take interest in property.

Ranking of legitimated children *inter se* and in relation to legitimate children

4. Section 5 of the Principal Ordinance is hereby amended by adding thereto the following as sub-sections (3) and (4) — Amendment of section 5 of the Principal Ordinance.

5 (3) Where property real or personal or any interest had not come into operation, it would (subject or not to any preceding limitations or charges) have devolved (as nearly as the law permits) along with a dignity or title of honour, then nothing in this Ordinance shall operate to sever the property or any interest therein from such dignity, but the same shall go and devolve (without prejudice to the preceding limitations or charges aforesaid) in like manner as if this Ordinance had not come into operation. This sub-section applies, whether or not there is any express reference to the dignity or title of honour and notwithstanding that in some events the property, or some interest therein, may become severed therefrom.

10 15 (4) This section applies only if and so far as a contrary intention is not expressed in the disposition, and shall have effect subject to the terms of the disposition and to the provisions therein contained.

#### OBJECTS AND REASONS.

This Bill amends the Legitimacy Ordinance, 1930, in one important respect, in that it debars from legitimation under the Ordinance the children of adulterous intercourse.

The amendment is in accordance with the English law as contained in the Legitimacy Act, 1926, and on grounds of public policy it is advisable that the law of the Colony be in accord with the law of England in this respect.

The amendments to section 4 of the Principal Ordinance are formal in character.

The proposed amendments to section 5 bring the Ordinance into line with the law in England.

- B 1 -

EXTRACT FROM  
LEGISLATIVE COUNCIL DEBATES OF THE  
22ND NOVEMBER, 1950:  
Legitimacy (Amendment) Bill.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to amend the Legitimacy Ordinance, 1930, be read a second time.

It was only in April of this year, Sir, that the Legitimacy Ordinance was placed on the Statute Book of the Colony. When that measure was finally approved for introduction into this Council there was very material variance in its provisions from the provisions of the parent English statute in as much as Section 3 of the Bill omitted the second sub-section of the corresponding section, which provides: "Nothing in this Ordinance shall operate to legitimate a person whose father or mother was married to a third person when the illegitimate person was born".

The result of that omission, Sir, is that the parents of an illegitimate child which is the offspring of adulterous intercourse are in a better position in this Colony in safeguarding the interests of that child than they are in England, or, so far as I have been able to ascertain, in any other part of the Empire which has adopted legislation similar to this. In as much as domicile is not an essential pre-requisite under our Ordinance, it would be competent to the parents or such a child to come out to this Colony and there legitimate that child with all the consequences of legitimation following on that act, whereas it would not be possible for them to do so in any other part of the Empire, either in England or in any colony or dominion which

has

A

has adopted the provisions of the English Act. That, Sir, it has been represented, is a divergence of local legislation which is contrary to public policy; and therefore, Sir, Clause 2 of the Bill seeks to restore in our local legislation the provisions which were omitted when the English legislation was taken as a model.

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Clause 3 calls for no comment. It is merely a rearrangement of the subsections and the proviso of Section 4 of the Ordinance; and equally Clause 4 is merely inserting, for the sake of uniformity, the provisions of the English Act which were felt to be not very necessary at the time in the conditions of this Colony. Again, in respect of that Clause, I would emphasize that in as much as the matter most affected by legislation such as this is that of inheritance, it is an advantage that similar provisions should obtain here to those which obtain in England, as estates may lie partly in this Colony and partly in the United Kingdom, and it is obviously to the general advantage that in such conditions similar provisions should obtain. I am sure no Hon. Member will take exception, and I beg to move that the Bill be read a second time.

THE HON. T.D.H. BRUCE: Your Excellency, I beg to second the motion.

CAPTAIN THE HON. H.E. SCHWARTZ: Your Excellency, it is difficult for me adequately to express the strength of my opposition to the proposed amendment to Section 3 of the Principal Ordinance.

I would preface my remarks by reminding this

this House that when this Bill was drafted by this Government they had before them the English Act, and the omission to which the Attorney General has referred, was no omission done in error but a definite omission. I suggest, after consideration by Government. I suggest that that omission was a right omission and should stand.

I am not concerned with what the law may be in other parts of the Empire where legislation on these lines has been introduced. I am concerned, and I suggest every Member of this House should be concerned, solely with the interests of the innocent child. The whole object of a Legitimacy Ordinance is to protect the innocent child. As the Bill now stands it is a complete protection to the innocent child provided that the people responsible for its birth are eventually married. If this amendment goes through it will be but a partial protection, and while the Attorney General has stated that where legislation has been introduced in other parts of the Empire it follows the lines now proposed in this Bill, I think I am right in saying that in Scotland it is a question, not of legislation but of canon law applying only to domiciled Scotsmen, but that there the provisions or that canon law are the same as the provisions which are now law in this country - such as became law in April last.

See 188

No 188

Now, Sir, it appears to me that if it is conceded that the sole object of such a Bill as this is the interests of the innocent child, are we to say - and can we fairly say that that child is any less innocent or any less worthy or

protection



- B 4 -

protection if the intercourse which gave it birth was an adulterous one or merely fornication. There may be many and grave differences between those two acts but I suggest that the difference should not be taken into consideration in a Bill framed solely in the interests of the person who is not responsible. Moreover, Sir, I would point out one absurdity of the law as it would be if this amendment went through. What is the position to be of a child who was conceived at a time when the parents were able to marry - that is to say, that the actual act which afterwards caused the birth of that child was not adulterous intercourse, because the people were not married, but afterwards, between the time the child was conceived and the time the child was born, the man went and married someone else, so that at the time the child was actually born the parents were not in a position to marry because one of them had already married. I am pointing out, Sir, that it does not necessarily follow under this amendment that a child born at the time one of its parents was already married to someone else is necessarily the result of adulterous intercourse. It is not so at all, Sir.

I would ask Government - and I speak not only on my own behalf but I think on behalf of every Member on this side of the House - in view of the unanimous feeling we have on the lines which I have tried to express, that Government would agree here and now to report progress and refer the matter back to the Secretary of State for the Colonies, pointing out to him the unanimous feeling which the Elected Members of this Colony have and asking

asking him, for reasons which I have attempted to give, to reconsider the matter and allow the Bill which is now law in this Colony to remain law without the proposed amendment of this Clause.

CAPTAIN THE HON. E.M.V. KENEALY: Your Excellency, I wish most strongly to oppose this Bill, particularly on the clause which has already been referred to. I submit, Sir, that it is not Government's function to attempt to thrust morality upon a people. Government's function is to attempt to attain social development along lines which are agreed to. It is idle to suggest that any government can control sexual morality and I maintain that it is brutal and cowardly to thrust that failure upon an innocent child. After all, on what is this measure based, Sir? Is it based on any element of kindness or is it based upon something cowardly and contemptible. I maintain, Sir, that it is based upon a dessicated inhumanity which we on this side of the House cannot agree to and Members on the other side should not agree to. One is not concerned with the ramification of possibilities. The matter has been explained and the variation in possibilities have been dealt with in detail. We are here to deal with the ultimate effect of the passing of this legislation, which would be an inhumanity, and a cowardly and contemptible inhumanity to an innocent child. I very strongly oppose this and I hope the Government will agree to the course suggested by my hon. friend on my right (the Hon. Member for Nairobi South).

THE HON. A.H. MALIK: Your Excellency, I beg to support the remarks which have been made by other members

Members on this side of the House, and I honestly feel, Sir, that an innocent child who was born like that - not through any fault of his own - should be adequately protected; and if this amendment goes through, as has been pointed out, that goes by the board. I also feel, Sir, that sufficient protection to an illegitimate child will act as a deterrent also on the two parents who go about in the fashion they should not do. In the interests of morality and society I do trust, Sir, that Government will not insist upon this amendment.

HIS EXCELLENCY: If, as I understand to be the case, the feeling of the unofficial Members on that side of the House is unanimous on this point . . .

THE HON. CONWAY HARVEY: Entirely, Sir.

HIS EXCELLENCY: . . . I am prepared to withhold the second reading of this Bill and make further representations to the Secretary of State.

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