

38198

38198

C0533/473

KENYA

Local Government (Rating)
Legislation.

Previous

18216/32

Subsequent

1937

297 17/2/36

309 14/12

M. Jackson 14

297 22/6

R. 309 29/6

R. 297 7/11.16/7

A. G. 25/8

in Date 31/8

the 1/9

Room 303 2/9

R. 299 2/9

R. 297 2/9

(J. J. J.) 3/9

R. 297

Title

1 Col. Sec. - 3 p (omitted) — 13.1.36
(orig. on 38072/36)

Spares to Liby.

Trs. 12 copies of Report of Select Ctee of Leg. Co. appointed to consider request upon the provisions of a Bill to amend the Local Govt. (Rating) Ordna. 1928.

? Await the Ordinance

C. J. Foxworth
21/1/36

J. J. Parnell
14/2
at work

N

Spares to Liby.

2. Col. Sec. 3 p. n. ----- 30th. May, 1936.
Transmits 12 copies of report of Select Committee dated 19.5.36. to consider Bill, in substitution of No. 1

Wait as above
C. J. Foxworth
23/6/36
at work

M

3 Rya 311 ----- 14.6.36
Trs. 2 with 12 spare copies of Order 16 of 1936 entitled "the local Govt (Rating) (Amndt.) Order".
Spares to Library.

4 Col. Sec. 3 p. n. ----- 19 June, 1936.
Encl. placed with 2p. enclosure to Legal Report omitted from No. 3.

DESTROYED UNDER STATUTE

M^r Dale

This seems mainly a legal affair with no great principles involved. May I have obtain. please - if any

J. E. G. Ford
25.8.

No obtain

(W) J. G.

Signify non-disallowance L.P.

31.

J. E. G. Ford

Noted
to Cree
the library
(copy)

3- Yo Kenya 681 (3 answers) 6/3

2 SEP 1936

Library

Source

DL

KENYA.

NO. 311



3
3
GOVERNMENT HOUSE,
NAIROBI,
KENYA.

JUNE, 1936.

RECEIVED

6 JUL 1936

C. O. REGY

Sir,

I have the honour to transmit two authenticated and twelve printed copies of Ordinance No. XVI of 1936 entitled "An Ordinance to Amend the Local Government (Rating) Ordinance, 1928" together with the Legal Report thereon prepared by the Attorney General.

This Ordinance passed its third reading in the Legislative Council on the 23rd May, 1936 and I assented to it in His Majesty's name on the 10th June, 1936.

I have the honour to be,

Sir,

Your most obedient, humble servant,



BRIGADIER-GENERAL
GOVERNOR

THE RIGHT HONOURABLE
W. OGBURN-GORE, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S. W. 1.

4

LEGAL REPORT

THE LOCAL GOVERNMENT (RATING) (AMENDMENT) BILL, 1936.

The object of this Bill is to amend the Principal Ordinance in the following respects:-

Clause 2. An amendment is made to section 9 of the Principal Ordinance to provide that where rateable property not previously valued is included in a valuation roll or where an increase in the value of any rateable property is made in a subsequent valuation roll, the local authority is required to send to the owner of the property affected a notice of the valuation thereof.

Clause 3. It has been represented that section 24 of the Principal Ordinance as it stands at present is of little or no practical value to rating authorities, and its requirements are extremely difficult to fulfil. Difficulties have been experienced in practice in proving that the tenant owed rent to his landlord at the date of the demand for payment of rates. The object of this clause is that when rates remain unpaid for a period of three months, the local authority may require the tenant of the property in future to pay his rent direct to them rather than to the owner.

Clause 4. The provisos to sub-clause (1) of the proposed section 28 are added because doubts have arisen as to whether, under the present wording of section 28 of the Principal Ordinance, the Governor in Council is empowered to exempt from the operation of the Ordinance land which is being used or which may be reserved for such purposes as hospitals, schools, aerodromes, railway running tracks, harbourworks and other public purposes.

It was the intention when the Principal Ordinance was enacted that these powers should be granted, and these provisos make the position clear, with the condition superimposed that when land is proposed to be reserved for a public purpose, the local authority shall have the power of objection, and, on such objection being made, an enquiry shall be held.

Sub-clauses (2), (3) and (4) of the proposed section 28 are designed to give effect to the recommendation of the Select Committee of the Legislative Council appointed to consider the provision of the Bill to the effect that when any Crown land has been reserved for a public purpose for a period exceeding five years and the reservation has subsequently been revoked by the Governor in Council, there shall be payable to the local authority, when such land is sold, a sum equivalent to the contribution in lieu of rates which would have been paid during the five ^{years} preceding such revocation if the land had not been reserved. If, however, another piece of land is subsequently reserved for the same public purpose, the five years' contribution shall be repaid by the local authority to the Government.

Sub-clause (5) provides that where Government has agreed to make land available for municipal or townplanning purposes, the contribution in lieu of rates shall cease to be payable from the date on which Government has agreed to make such land available.

Clause 5 validates all Rules hitherto made under section 28 of the Principal Ordinance.

Clause 6 follows very closely the provisions of section 86 of the Local Government (Municipalities) Ordinance, 1928, which provides that no transfer of any premises can be registered without a certificate from

52407/28


6
the Town Clerk to the effect that all charges for the preceding three years have been paid. That period it is now proposed in the case of rates to extend to twelve years, and it is also proposed that not only should a transfer of premises be precluded but also the transfer of any mortgage in respect of these premises.

No Comparative Table accompanies the Bill since the amendments contained therein are not modelled on any Ordinance or Imperial Act. A copy of the Bill, however, showing the section of the Principal Ordinance which it is proposed to be amended or replaced is enclosed for transmission to the Secretary of State.

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

Nairobi,

8th June, 1936.


ATTORNEY GENERAL.

COLONY AND PROTECTORATE OF KENYA



A BILL TO AMEND THE
LOCAL GOVERNMENT (RATING) ORDINANCE,
1928

1444—7th. G.O.—19—11—28.

PRINTED BY THE GOVERNMENT PRINTER, NAIROBI.

**A Bill to Amend the Local Government
(Rating) Ordinance, 1928**

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

1. This Ordinance may be cited as the Local Government (Rating) Amendment Ordinance, 1928 and shall be read as one with the Local Government (Rating) Ordinance, 1928, hereinafter referred to as the Principal Ordinance.

Short title
No. 20 of 1928

2. Section 9 of the Principal Ordinance is hereby repealed and the following section is substituted therein:

Repeal and
replacement of
section 9 of
the Principal
Ordinance.

Section 9 of the Principal Ordinance which is proposed to replace —

9. When the valuation roll has been completed it shall be laid before the local authority and shall lie at its office for public inspection, and any person may at all reasonable times inspect the same and take copies or extracts therefrom. The local authority shall, by notice published in the Gazette and in one or more newspapers if any circulating in the municipality call upon all persons interested to lodge in writing with the Town Clerk, within a specified time not less than fourteen days from the first publication of such notice, in the form set forth in the Schedule to this Ordinance, notice of any objections that they may have in respect of the valuation of any rateable property valued as aforesaid or in respect of the omission therefrom of property alleged to be rateable property and whether held by the person objecting or by others, or in respect of any other error, omission or misdescription. No person shall be entitled to urge any objection before the Valuation Court hereinafter referred to unless he shall have first lodged such notice of objection as aforesaid.

Inspection of
provisional
roll.
Objections

9. (1) When the valuation roll has been completed it shall be laid before the local authority and shall lie at its office for public inspection, and any person may at all reasonable times inspect the same and take copies or extracts therefrom.

Inspection of
provisional
roll
Objections

(2) The local authority shall, by notice published in the Gazette and in one or more newspapers if any circulating in the municipality call upon all persons interested to lodge in writing with the Town Clerk, within a specified time not less than twenty days from the first publication of such notice in the form set forth in the Schedule to this Ordinance, notice of any objections that they may have in respect of the valuation of any rateable property valued as aforesaid or in respect of the omission therefrom of property alleged to be rateable property and whether held by the person objecting or by others, or in respect of any other error, omission or misdescription. No person shall be entitled to urge any objection before the Valuation Court hereinafter referred to unless he shall have first lodged such notice of objection as aforesaid.

(3) Where there is included in the valuation roll as laid before the local authority some rateable property not previously valued, or when the rateable value assigned in the valuation roll to some rateable property exceeds the value as stated in the valuation roll for the time being in force, the local authority shall, within fourteen days after the laying before the local authority of the valuation roll, send to the owner of the rateable property affected, a notice of the valuation thereof inserted in the valuation roll.

Amendment of
Section 24
of the
Principal
Ordinance.

5. Section 24 of the Principal Ordinance is hereby repealed and the following section is substituted therefor -

Proceedings
for recovery
of rates un-
paid for
three months.

24. When any rate imposed upon any owners of rateable property shall remain unpaid for a period of three months after the date on which such rate shall have been fixed to become due and payable, it shall be lawful for the local authority to serve upon any person paying rent in respect of such rateable property or any part thereof to the person from whom the arrears are due a notice stating the amount of such arrears and requiring all future payments of rent (whether the same have already accrued due or not) by the person paying the rent to be made direct to the local authority until such arrears have been duly paid and such notice shall operate to transfer to the local authority the right to recover, receive and give a discharge for such rent.

Re
re
of
28 of the
Principal
Ordinance.

In this section the expression "rent" includes a payment made by a lodger." Repealed and the following section is substituted therefor -

Basis of
valuation
of interest
in land held
by the Crown.

No.19 of 1928.

28.(1) Notwithstanding anything otherwise to the contrary contained in this Ordinance, but subject to the proviso hereinafter contained, any interest in land held by the Crown which would, if it were not so held, be rateable property under this Ordinance shall for the purposes of assessing the contributions in lieu of rates payable by the Government of the Colony under the provisions of the Local Government (Municipalities) Ordinance, 1928, be valued in accordance with the principles laid down in this Ordinance, subject to such exceptions and in such manner as may be prescribed by rules made by the Governor in Council:

Provided that such rules may exempt from such valuation and from payment of any contributions in lieu of such rates as aforesaid any interest in land held by the Crown which is being used for a public purpose or may exempt from payment of any contributions in lieu of such rates as aforesaid any interest in land held by the Crown which should, in the opinion of the Governor in Council,

Section 24 of the Principal Ordinance which it is proposed to amend :-

24. When any rate imposed upon any owners of rateable property shall remain unpaid for a period of three months after the date on which such rate shall have been fixed to become due and payable, the local authority may, at any time within twelve months after the imposing of the rate, demand the amount of such rate or any part thereof from any tenant or occupier for the time being of such rateable property to the extent of any rent due and payable by the tenant at the date of the demand, and on non-payment thereof may, after one month from the date of such demand, recover the same from such tenant or occupier in the same manner as though he were the owner; and every such tenant or occupier shall be entitled to deduct from any rent or other amount payable by him to such owner, or his successors in title, so much as was so paid by or recovered from him, and the production of the receipt for such rates so paid by or recovered from such tenant or occupier shall be a good and sufficient discharge for the amount so paid or recovered as payment of rent or other amount.

Section 28 of the Principal Ordinance which it is proposed to replace :-

28. Notwithstanding anything to the contrary contained in this Ordinance, any interest in land held by the Crown which would, if it were not so held, be rateable property under this Ordinance shall for the purpose of assessing the contributions in lieu of rates payable by the Government of the Colony under the provisions of the Local Government (Municipalities) Ordinance, 1928, be valued in accordance with the principles laid down in this Ordinance subject to such exceptions and in such manner as may be prescribed by rules made by the Governor in Council.

Proceedings
for recovery of
rates unpaid
for three
months.

Basis of valuation
of Crown
property.

to making any decision either as to the reservation of any interest in land for a public purpose or as to the area to be so reserved shall enquire into any objection which may be lodged by the local authority concerned at which enquire the local authority if it so wishes shall be entitled to be heard both at the time of the first reservation and on the expiration of every five years thereafter.

(3) When it appears to the Governor in Council that any area of Crown land which has been reserved for a public purpose is no longer required to be reserved for such or any other public purpose, the Governor in Council shall revoke the reservation thereof and from the date of such revocation the Crown's interest in such land shall cease to be exempt from assessment for a contribution in lieu of rates.

(5) Subject to the provisions of sub-section (4) of this section when any interest in land held by the Crown has been reserved for a public purpose and such reservation has been in operation for a period exceeding five years and such reservation has subsequently been revoked by the Governor in Council, there shall be payable to the local authority when any interest in such land is sold a sum equivalent to the contribution in lieu of rates which would have been paid during the period of five years immediately preceding such revocation if such interest in land had not been reserved.

(4) When a reservation has been revoked under the provisions of sub-section (3) of this section, and another interest in land held by the Crown is thereafter reserved for the same public purpose a refund shall be made to Government by the local authority of the contributions in lieu of rates paid by the Government in respect of such interest in land during the period of five years immediately preceding such reservation.

(5) Where the Governor agrees to make available any interest in land held by the Crown for any Municipal or Town Planning purpose no contribution in lieu of rates shall be payable to the local authority under this section from the date on which the Governor agrees to make such interest in land available for any such purpose."

5. Notwithstanding anything contained in the Principal Ordinance all the provisions of all Rules hitherto made by the Governor in Council under and by virtue of the powers conferred upon him by section 28 of the Principal Ordinance as they appeared before the passing of this Ordinance are hereby declared to be and always to have been legal and valid and of full force and effect.

Validity of Rules hitherto made under section 28 of the Principal Ordinance.

6. (1) Subject and without prejudice to the rights of the Crown, every rate imposed by the local authority under the Principal Ordinance shall, without registration, be a first charge on the property in respect of which it is imposed, enforceable (unless satisfied) for three years from the date of the imposition thereof.

Rate to be a first charge on the property.

(2) If any sum payable in respect of any rate imposed under the Principal Ordinance shall remain unpaid for a period of six months after the date on which such rate shall have been fixed to become due and payable, the local authority may, notwithstanding any other mode provided for under the Principal Ordinance for the recovery of rates, apply to the magistrate having jurisdiction for the attachment and sale of the land charged with such rate. And thereupon the magistrate having jurisdiction shall attach such property, and by order, notice of which shall be given in accordance with the provisions of sub-section (4) of this section, declare his intention of selling any such land at the expiration of thirty days after the date of such attachment.

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es, taxes
other
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nises.

(1) No transfer of any premises or any transfer of any mortgage on such premises within a municipality shall be passed or registered before any registration officer until a written statement in the form shown in the Schedule to this Ordinance, and signed and certified by the Town Clerk, or other officer authorised thereto by the Council, shall be produced to such registration officer, nor unless such statement shows that all charges (if any) for a period of twelve years immediately preceding such date due in respect of such premises on account of rates imposed under any enactment for the time being in force within the municipality have been paid to the Council.

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

~~Provided that before making any order under this sub-section, the magistrate having jurisdiction shall call for and inspect a certified copy of every entry in the register kept by the Registrar of Titles relating to such property, and shall further require to be satisfied by the local authority that every reasonable effort has been made to obtain the amount due and payable in respect of such rates from the owner of such land and from all persons having any interest in such land as mortgagees or chargees.~~

~~(3) If, at the expiration of the said period of thirty days, such rate has not been paid or satisfied, the magistrate having jurisdiction shall sell by public auction any such land as shall have been attached as aforesaid.~~

~~(4) The notice required to be given under sub-section (2) of this section shall be given by publishing a copy of the order in one issue of the Gazette and serving a copy thereof on all interested parties by delivering the same at his or their last known place of residence, and by affixing a copy of the order on such land:~~

~~Provided that where the magistrate having jurisdiction has reason to believe that, at the time of such application by the local authority, the registered owner of such land or his duly authorized agent or attorney, or any person interested in such land as mortgagee or chargee or the duly authorized agent or attorney of such mortgagee or chargee, is resident in the Colony, he may direct the manner of any further service.~~

~~(5) The provisions of this section shall not apply to any rate which became due and payable before the coming into operation of this Ordinance.~~

~~(6) For the purposes of attaching such property, and of declaring his intention of selling any such land, and of selling such land by public auction, the magistrate having jurisdiction shall, notwithstanding anything in any other Ordinance contained, have all the powers of a judge of the Supreme Court.~~

~~(7) If the amount unpaid under sub-section (2) of this section exceeds the amount within the jurisdiction of a magistrate of the first class, then, notwithstanding such excess, a magistrate of the first class shall be deemed to be the magistrate having jurisdiction within the meaning of this Ordinance.~~

~~7. The proceeds of such sale as above mentioned shall be applied in the first place in satisfaction of the arrears together with interest thereon from the date of the notice of sale at~~

Application of proceeds.



Colony and Protectorate of Kenya.

IN THE FIRST YEAR OF THE REIGN OF
HIS MAJESTY KING EDWARD VIII.

JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.
Governor.

Assented to in His Majesty's
name this 10 day of June
1936.

J. BYRNE
Governor.

**AN ORDINANCE TO AMEND THE LOCAL
GOVERNMENT (RATING) ORDINANCE, 1928**

ORDINANCE No. XVI of 1936

**An Ordinance to Amend the Local Government
(Rating) Ordinance, 1928.**

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

1. This Ordinance may be cited as the Local Government (Rating) (Amendment) Ordinance, 1936, and shall be read as one with the Local Government (Rating) Ordinance, 1928, hereinafter referred to as the Principal Ordinance.

Short title.

No. 90 of 1928

2. Section 9 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Repeal and replacement of section 9 of the Principal Ordinance.

Inspection of provisional roll, objections.

“9. (1) When the valuation roll has been completed it shall be laid before the local authority and shall lie at its office for public inspection, and any person may at all reasonable times inspect the same and take copies or extracts therefrom.

(2) The local authority shall, by notice published in the Gazette and in one or more newspapers (if any) circulating in the municipality, call upon all persons interested to lodge in writing with the Town Clerk, within a specified time not less than twenty-eight days from the first publication of such notice, in the form set forth in the Schedule to this Ordinance, notices of any objections that they may have in respect of the valuation of any rateable property valued as aforesaid or in respect of the omission therefrom of property alleged to be rateable property, and whether held by the person objecting or by others, or in respect of any other error, omission or misdescription. No person shall be entitled to urge any objection before the Valuation Court hereinafter referred to unless he shall have first lodged such notice of objection as aforesaid.

(3) Where there is included in the valuation roll as laid before the local authority some rateable property not previously valued, or when the rateable value assigned in the valuation roll to some rateable property exceeds the value as stated in the valuation roll for the time being in force, the local authority shall, within fourteen days after the laying before the local authority of the valuation roll, send to the owner of the rateable property affected, a notice of the valuation thereof inserted in the valuation roll."

3. Section 24 of the Principal Ordinance is hereby repealed and the following section is substituted therefor :-

Amendment of section 24 of the Principal Ordinance.

Proceedings for recovery of rates suspended for three months.

"24. When any rate imposed upon any owners of rateable property shall remain unpaid for a period of three months after the date on which such rate shall have been fixed to become due and payable it shall be lawful for the local authority to serve upon any person paying rent in respect of such rateable property or any part thereof to the person from whom the arrears are due a notice stating the amount of such arrears and requiring all future payments of rent (whether the same have already accrued due or not) by the person paying the rent to be made direct to the local authority until such arrears have been duly paid and such notice shall operate to transfer to the local authority the right to recover, receive and give a discharge for such rent.

In this section the expression "rent" includes a payment made by a lodger."

4. Section 28 of the Principal Ordinance is hereby repealed and the following section is substituted therefor :-

Repeal and replacement of section 28 of the Principal Ordinance.

Basis of valuation of interest in land held by the Crown.

"28. (1) Notwithstanding anything otherwise to the contrary contained in this Ordinance, but subject to the provisos hereinafter contained, any interest in land held by the Crown which would, if it were not so held, be rateable property under this Ordinance shall for the purposes of assessing the contributions in lieu of rates payable by the Government of the Colony under the provisions of the Local Government (Municipalities) Ordinance, 1928, be valued in accordance with the principles laid down in this

Ordinance, subject to such exceptions and in such manner as may be prescribed by Rules made by the Governor in Council :

Provided that such rules may exempt from such valuation and from payment of any contributions in lieu of such rates as aforesaid any interest in land held by the Crown which is being used for a public purpose or may exempt from payment of any contributions in lieu of such rates as aforesaid any interest in land held by the Crown which should, in the opinion of the Governor in Council, be reserved for a public purpose.

Provided further that the Governor in Council prior to making any decision either as to the reservation of any interest in land for a public purpose or as to the area to be so reserved shall inquire into any objection which may be lodged by the local authority concerned at which inquiry the local authority if it so wishes shall be entitled to be heard both at the time of the first reservation and on the expiration of every five years thereafter.

(2) When it appears to the Governor in Council that any area of Crown land which has been reserved for a public purpose is no longer required to be reserved for such or any other public purpose, the Governor in Council shall revoke the reservation thereof and from the date of such revocation the Crown's interest in such land shall cease to be exempt from assessment for a contribution in lieu of rates.

(3) Subject to the provisions of sub-section (4) of this section when any interest in land held by the Crown has been reserved for a public purpose and such reservation has been in operation for a period exceeding five years and such reservation has subsequently been revoked by the Governor in Council, there shall be payable to the local authority when any interest in such land is sold a sum equivalent to the contribution in lieu of rates which would have been paid during the period of five years immediately preceding such revocation if such interest in land had not been reserved.

(4) When a reservation has been revoked under the provisions of sub-section (3) of this section, and another interest in land held by the Crown is thereafter reserved for the same public purpose a refund shall be made to Government by the local authority of the contributions in lieu of rates paid by the Government in respect of such interest in land during the period of five years immediately preceding such reservation.

(5) Where the Governor agrees to make available any interest in land held by the Crown for any municipal or town planning purpose no contribution in lieu of rates shall be payable to the local authority under this section from the date on which the Governor agrees to make such interest in land available for any such purpose.

Valid Rules hitherto made under section 28 of the Principal Ordinance.

5. Notwithstanding anything contained in the Principal Ordinance all the provisions of all Rules hitherto made by the Governor in Council under and by virtue of the powers conferred upon him by section 28 of the Principal Ordinance as they appeared before the passing of this Ordinance are hereby declared to be and always to have been legal and valid and of full force and effect.

Payment of rates, taxes and other premises.

6. (1) No transfer of any premises or any transfer of any mortgage on such premises within a municipality shall be passed or registered before any registration officer until a written statement in the form shown in the Schedule to this Ordinance, and signed and certified by the Town Clerk, or other officer authorized thereto by the Council, shall be produced to such registration officer, nor unless such statement shows that all charges (if any) for a period of twelve years immediately preceding such date due in respect of such premises on account of rates imposed under any enactment for the time being in force within the municipality have been paid to the Council.

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

THE SCHEDULE.

THE LOCAL GOVERNMENT (RATING) (AMENDMENT) ORDINANCE, 1936.

Section 6.

This is to certify that all sums due in accordance with section 6 of the Local Government (Rating) (Amendment) Ordinance, 1936, to the Municipal Council (or Board) of in respect of the premises registered in the name of have been paid to the Council (or Board).

This certificate is available to 19.....

Given under my hand at this day of One thousand nine hundred and

Town Clerk.

Municipality.

Passed in the Legislative Council the twenty-third day of May, in the year of our Lord one thousand nine hundred and thirty-six.

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.

R. W. C. BAKER-BEALL

Acting Clerk of the Legislative Council.



THE SECRETARIAT,
NAIROBI,
KENYA.

WHEN REPLYING
PLEASE QUOTE
NO. AND DATE

5/Ag.Co.26/3/7/24

30 May, 1936

The Colonial Secretary of the Colony and Protectorate of Kenya presents his compliments to the Under Secretary of State for the Colonies, and has the honour to transmit twelve copies each of the undermentioned publications:

38136/36

Prisons Department Annual Report 1935

38250/36

Report of Select Committee of Legislative Council on the Ferries Bill

38216/36

Report of Select Committee of Legislative Council on the Land and Agricultural Bank (Amendment) Bill

Report of Select Committee dated 19th May, 1936, of Legislative Council on the Local Government (Rating) (Amendment) Bill in substitution for the Report dated 7th January, 1936

R E P O R T
O F
THE SELECT COMMITTEE OF LEGISLATIVE COUNCIL
APPOINTED TO CONSIDER AND REPORT UPON THE
PROVISIONS OF A BILL TO AMEND THE LOCAL
GOVERNMENT (RATING) ORDINANCE, 1928

Your Excellency,

We, the members of the Select Committee appointed to consider and report upon the provisions of the above Bill, have the honour to recommend that the Bill be amended in the following respects -

1. Clause 1. That this clause be amended by the deletion of the figures "1955" which occur in the second line thereof and the substitution therefor of the figures "1956".

2. Clause 2. That Clause 2 be amended by the deletion of the words "twenty-one" which occur in the twelfth line thereof, and the substitution therefor of the words "twenty-eight".

3. Clause 3. That Clause 3 be deleted and that the following Clause be substituted therefor -

"Amendment of section 24 of the Principal Ordinance.

3. Section 24 of the Principal Ordinance is hereby repealed and the following section is substituted therefor -

'Proceedings for recovery of rates unpaid for three months.

24. When any rate imposed upon any owners of rateable property shall remain unpaid for a period of three months after the date on which such rate shall have been fixed to become due and payable it shall be lawful for the local authority to serve upon any person paying rent in respect of such rateable property or any part thereof to the person from whom the arrears are due a notice stating the amount of such arrears and requiring all future payments of rent (whether the same have already accrued due or not) by the person paying the rent to be made direct to the local authority until such arrears have been duly paid and such notice shall operate to transfer to the local authority the right to recover, receive and give a discharge for such rent.

In this section the expression "rent" includes a payment made by a lodger."

4. Clause 4. That Clause 4 be deleted and that the following Clause be substituted therefor -

"Repeal and replacement of section 28 of the Principal Ordinance.

4. Section 28 of the Principal Ordinance is hereby repealed and the following section is substituted therefor -

'Basis of valuation of interest in land held by the Crown.

No.19 of 1928.

28.(1) Notwithstanding anything otherwise to the contrary contained in this Ordinance, but subject to the provisions hereinafter contained, any interest in land held by the Crown which would, if it were not so held, be rateable property under this Ordinance shall for the purposes of assessing the contributions in lieu of rates payable by the Government of the Colony under the provisions of the Local Government (Municipalities) Ordinance, 1929, be valued in accordance with the principles laid down in this Ordinance, subject to such exceptions and in such manner as may be prescribed by rules made by the Governor in Council:

Provided that such rules may exempt from such valuation and from payment of any contributions in lieu of such rates as aforesaid any interest in land held by the Crown which is being used for a public purpose or may exempt from payment of any contributions in lieu of such rates as aforesaid any interest in land held by the Crown which should, in the opinion of the Governor in Council, be reserved for a public purpose:

Provided further that the Governor in Council, prior to making any decision either as to the reservation of any interest in land for a public purpose or as to the area to be so reserved shall enquire into any objection which may be lodged by the local authority concerned at which enquiry the local authority if it so wishes shall be entitled to be heard both at the time of the first reservation and on the expiration of every five years thereafter.

(2) When it appears to the Governor in Council that any area of Crown land which has been reserved for a public purpose is no longer required to be reserved for such or any other public purpose, the Governor in Council shall revoke the reservation thereof and from the date of such revocation the Crown's interest in such land shall cease to be exempt from assessment for a contribution in lieu of rates.

(3) Subject to the provisions of sub-section (4) of this section when any interest in land held by the Crown has been reserved for a public purpose and such reservation has been in operation for a period exceeding five years and such reservation has subsequently been revoked by the Governor in Council, there shall be payable to the local authority when any interest in such land is sold a sum equivalent to the contribution in lieu of rates which would have been paid during the period of five years immediately preceding such revocation if such interest in land had not been reserved.

(4) When a reservation has been revoked under the provisions of sub-section (3) of this section, and another interest in land held by the Crown is thereafter reserved for the same public purpose a refund shall be made to Government by the local authority of the contributions in lieu of rates paid by the Government in respect of such interest in land during the period of five years immediately preceding such reservation.

(5) Where the Governor agrees to make available any interest in land held by the Crown for any Municipal or Town Planning purpose no contribution in lieu of rates shall be payable to the local authority under this section from the date on which the Governor agrees to make such interest in land available for any such purpose."

5. Clauses 6, 7 and 8. That Clauses 6, 7 and 8 be deleted and that the following Clause be substituted therefor -

"Payment of rates, taxes and other transfer of premises.

6. (1) No transfer of any premises or any transfer of any mortgage on such premises within a municipality shall be passed or registered before any registration officer until a written statement in the form shown in the Schedule to this Ordinance, and signed and certified by the Town Clerk, or other officer authorised thereto by the Council, shall be produced to such registration officer, nor unless such statement shows that all charges (if any) for a period of twelve years immediately preceding such date due in respect of such premises on account of rates imposed under any enactment for the time being in force within the municipality have been paid to the Council.

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

6. That the following Schedule be added to the Bill -

"THE SCHEDULE
LOCAL GOVERNMENT (RATING) (AMENDMENT) ORDINANCE, 1936
SECTION 6

This is to certify that all sums due in accordance with section 6 of the Local Government (Rating) (Amendment) Ordinance, 1936, to the Municipal Council (or Board) of in respect of the premises registered in the name of have been paid to the Council (or Board).

This certificate is available to 19

Given under my hand at this day of (One thousand nine hundred and

.....
Town Clerk
..... Municipality."

Captain the Honourable H.E.Schwartz did not attend the meeting and has therefore not signed this

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

- SD. W. HARRAGIN (CHAIRMAN)
- SD. W.M. LOGAN (MEMBER)
- SD. H.G. PILLING (MEMBER)
- SD. P.W. CAVENDISH BELFRICK (MEMBER)
- SD. F.A. BLISTER (MEMBER)
- SD. ISHER DASS (MEMBER)

Nairobi,

19th May, 1956.

R E P O R T
O F

THE SELECT COMMITTEE OF LEGISLATIVE COUNCIL
APPOINTED TO CONSIDER AND REPORT UPON THE
PROVISIONS OF A BILL TO AMEND THE LOCAL
GOVERNMENT (RATING) ORDINANCE, 1928

1/15/40/28
Kaya
Your Excellency,

We, the majority of the Members of the Select Committee appointed to consider and report upon the provisions of the above Bill have the honour to recommend that the Bill be amended in the following respects

1. Clause 1. That this Clause be amended by the deletion of the figures "1935" which occur in the second line thereof and the substitution thereof of the figures "1936".
2. Clause 2. That Clause 2 be amended by the deletion of the words "twenty-one" which occur in the twelfth line thereof, and the substitution thereof of the words "twenty-eight".
3. Clause 3. That Clause ³ be deleted and that the following Clause be substituted therefor

Amendment of
section 24
of the
Principal
Ordinance.

3. Section 24 of the Principal Ordinance is hereby repealed and the following section is substituted therefor -

24. When any rate imposed upon any owners of rateable property shall remain unpaid for a period of three months after the date on which such rate shall have been fixed to become due and payable it shall be lawful for the local authority to serve upon any person paying rent in respect of such rateable property or any part thereof to the person from whom the arrears are due a notice stating the amount of such arrears and requiring all future payments of rent (whether the same have already accrued due or not) by the person paying the rent to be made direct to the local authority until such arrears have been duly paid and such notice shall operate to transfer to the local authority the right to recover receive and give a discharge for such rent.

In this section the expression "rent" includes a payment made by a lodger."

4. Clause 4. That Clause 4 be deleted and that the following Clause be substituted therefor -

"Repeal and replacement of section 28 of the Principal Ordinance.

4. Section 28 of the Principal Ordinance is hereby repealed and the following section is substituted therefor -

'Basis of valuation of interest in land held by the Crown.

28.(1) Notwithstanding anything otherwise to the contrary contained in this Ordinance but subject to the provisions hereinafter contained, any interest in land held by the Crown which would, if it were not so held, the rateable property under this Ordinance shall for the purposes of assessing the contributions in lieu of rates payable by the Government of the Colony under the provisions of the Local Government (Municipalities) Ordinance, 1926, be valued in accordance with the principles laid down in this Ordinance, subject to such exceptions and in such manner as may be prescribed by rules made by the Governor in Council:

No. 19 of 1928.

1/15 407/2
(in case)

Provided that such rules may exempt from such valuation and from payment of any contributions in lieu of such rates as aforesaid any interest in land held by the Crown which is being used for a public purpose or may exempt from payment of any contributions in lieu of such rates as aforesaid any interest in land held by the Crown which would, in the opinion of the Governor in Council, be reserved for a public purpose: Provided further that the Governor in Council, prior to making any decision either as to the reservation of any interest in land for a public purpose or as to the area to be so reserved shall enquire into any objection which may be lodged by the local authority concerned at which enquiry the local authority if it so wishes shall be entitled to be heard both at the time of the first reservation and on the expiration of every five years thereafter.

(2) When it appears to the Governor in Council that any area of Crown land which has been reserved for a public purpose is no longer required to be reserved for such or any other public purpose, the Governor in Council shall revoke the reservation thereof and from the date of such revocation the Crown's interest in such land shall cease to be exempt from assessment for a contribution in lieu of rates.

(3) When any interest in land held by the Crown has been reserved for a public purpose and such reservation has been in operation for a period exceeding five years and such reservation has subsequently been revoked by the Governor in Council, there shall be payable to the local authority when any interest in such land is sold a sum equivalent to the contribution in lieu of rates which would have been paid during the period of five years immediately preceding such revocation if such interest in land had not been reserved."

5. Clauses 6, 7 and 8. That Clauses 6, 7 and 8 be deleted and that the following Clause be substituted therefor -

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6.(1) No transfer of any premises or any transfer of any mortgage on such premises within a municipality shall be passed or registered before any registration officer until a written statement in the form shown in the Schedule to this Ordinance, and signed and certified by the Town Clerk, or other officer authorised thereto by the Council, shall be produced to such registration officer, nor unless such statements shows that all charges (if any, for a period of twelve years immediately preceding such date due in respect of such premises on account of rates imposed under any enactment for the time being in force within the municipality have been paid to the Council.

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

6. That the following Schedule be added to the Bill -

"THE SCHEDULE
THE LOCAL GOVERNMENT (RATING) (AMENDMENT) ORDINANCE, 1936
Section 6

This is to certify that all sums due in accordance with section 6 of the Local Government (Rating) (Amendment) Ordinance, 1936, to the Municipal Council (or Board) of .. in respect of the premises .. registered in the name of .. have been paid to the Council (or Board)

This certificate is available to .. is ..

Goven under my hand at this day of one thousand nine hundred and

.....
Town Clerk
..... Municipality"

We have the honour to be,

Your Excellency's most obedient servants,

- SD. W. HARRAGIN (CHAIRMAN)
- SD. H. G. PILLING (MEMBER)
- SD. F. J. CAVERDISH BENTLOCK (MEMBER)
- SD. E. E. SCHWARTZ (MEMBER)
- SD. F. A. BEMISTER (MEMBER)
- SD. D. P. P. T. (MEMBER)

Nairobi,
7th January, 1936

MINORITY REPORT

I agree with paragraphs 1, 2, 3, 5 and 6 of the above report but dissent from the recommendations in paragraph 4. I consider that paragraph 4 of the report should read as follows:-

4. Clause 4. That Clause 4 of the Bill be amended by the deletion of the last seven words and substituted therefor of the following words -

'if it so wishes shall be entitled to be heard both at the time of the first reservation and on the expiration of every five years thereafter.'

Mairubi,

SD. J. R. LOGAN (MEMBER)

7th January, 1935