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8. Further with reference to this aspect of the matter we object to paragraph 9 of the memorandum. It is peculiarly unfair to levy a rate on unimproved site values. Firstly, because of the difference between actual and potential values as hereinbefore explained, and secondly, because a tax on unimproved site values will mean penalising owners of land for not building in circumstances that they are not building because there is no immediate demand for buildings in the particular area. The ordinary economic law of supply and demand will always operate and other things being equal buildings will go up whenever and wherever they are required. On the other hand, the landowner is going to erect a building on his land if there is no reasonable prospect of any building being occupied on completion. We trust that this aspect of the matter will show how inequitable is the proposed method of meeting the charges on the loan.

9. In this connection, whatever the tax, it should be at the very least clearly set out that in any event now tax will be levied until the road is completed and further that there should be no appropriation of land until such is actually required for the purpose of such road.

10. On the other hand, it seems to us highly probable that the immediate result of the scheme will be to render land cheap certainly land along the main Mombasa thoroughfares will tend to become cheaper than other land in the vicinity is served with good roads.

11. We appreciate the principle that the residential area should be kept from the commercial area, but it is submitted that a considerable extension of the principle, further to include the commercial area into shop area and godown area. Firstly, because as it seems to us there can in principle be no distinction between shops being in the shop area; and secondly, because in practice it is even desirable that godowns should be not too far removed from the shops.

12. This brings us to the further principle that the Town Planning Authority without reference to owners and without reference to the fact that our land is not held of the Crown (as certificates of ownership will easily show) now attempt to put restrictions on the use to which such owners may put their land, even to the extent which is keenly resented—that it is laid down that a certain portion of the Island (and that not all Crown land) has been set apart for leases or tenements of

the coolie class. While on this subject it is fairly common knowledge and the nature of the comment is obvious—that land of Mwan Gagan or in which he has a substantial interest some 200 or more acres in extent at Mbaraki has been exempted from the scheme.

13. It is felt then that in all the circumstances of title to land any legislative enactment purporting to restrict the owner thereof as to the nature of the buildings to be erected thereon is unjust and that the same result could be attained by less arbitrary means in obedience to general economic laws.

14. We wish to object also in particular to the rule forbidding of a building of more than two storeys which abuts on a forty-foot road.

15. There is the further fact that it is strongly felt that it is only private inhabitants of Mombasa who are being called upon to pay for road development. The miles and miles of roads made up-country have been made and their upkeep provided for out of general revenue, the roads in the official quarter of the Island have been made and kept up and are being kept up out of general revenue, but owners of private titles to land who it is submitted should rightly be in a better position are now being called upon to pay for development both by deprivation of a portion of their lands and by further taxation on an already hard taxed community.

16. To summarise, our objections are—

(i) To the principle of acquisition without compensation.

(ii) To the underlying assumption that the actual values of land must necessarily increase.

(iii) To the principle of taxation of unimproved site values.

(iv) To the danger of excessively high assessment regard being had to the unappreciated distinction between actual and potential value of land on Mombasa Island.

(v) To the unnecessary burden which will be added to a community already hard pressed and which will almost certainly in the case of the smaller Arab and other owners mean their further impoverishment.

15. And we suggest that the basic principle of acquisition under the scheme should be acquisition for consideration.

We trust that our objections and suggestions will be carefully and favourably considered.

We beg to remain,
Sir,
Your obedient servants,
JAFFER DEWJI
and sundry others

(Refers to Objections.)

Ref. No. T.P.14.
RESIDENT COMMISSIONER'S OFFICE,
MOMBASA,
19th November, 1924.

THE HON. COLONEL SECRETARY,
NAGROU.

MOMBASA TOWN PLAN

Four objections, namely:-

1. Petition, dated 25th October, from Arab and Bahain landowners, Mombasa, forwarded under cover of your 16201/1/8/23a of 5/11/24. Objection 8.

2. Petition, dated 25th October, from Indian and Goan landowners, of Mombasa, forwarded with a covering letter from Mr. Jaffer Dewji (under your 16201/1/8/22a of 5/11/24. Objection 8.

3. Petition, dated 25th October, from the same Indian and Goan landowners as in 2 above and signed by Moosa bin Jussawjee and P. N. Jussawjee, relating to Plots Nos. 88, 2, 95, 572, 90, 2, 89, 2, 28, 1, 69, 2, 7, 94, 2, 28, 7, 90, 3 and 6477. Objection 7.

4. Petition, dated 30th October, from the Bohra Daudi Jamat, signed by A. B. Patel and forwarded with your No. 16201/1/8, 23 of 5/11/24 -relating to Plots Nos. 11 and 12, Section 3. Objection 9.

We defer our reply to Nos. 2 and 4 above until an officer arrives to take over the duties of Assistant Land Officer in the absence of Mr. L. C. Wright on sick leave.

*See page 37. †See page 48.

We would however point out that the writers of No. 3 are identical with the writers of No. 2, which is so like Petition 1 that it has the same arguments and a corresponding arrangement of paragraphs.

2. The copies of Petitions Nos. 1 and 2 sent to us do not give the names of the signatories and we do not therefore know to what extent these Arab, Indian and Goan petitioners can be taken to represent the general views of their communities. It is however significant that the Senior Liwahi has formally withdrawn all his objections to the Town Plan, and he is by far the biggest Arab landowner in Mombasa, and is also understood to be the director and moderator of all the sounder Arab and native opinion on the Island.

3. In view of the similarity of the two Petitions 1 and 2 it will suffice if we draft a single reply to them. We shall reply seriatim to the points raised.

4. Paragraphs 1-3 of both letters are in the nature of a preamble and require no comment.

5. Paragraph 4 (a) of Petition No. 1 and paragraph 4 of Petition No. 2 raise the point that demolition and loss of plot area even below 20 per cent. must result in material damage. The petitioners seem to betray a lack of study of the details of the scheme. Otherwise it would not have escaped them that demolition and plot compensation have been separately assessed, and plot compensation again has been subdivided in respect of (a) plots which previously had roads, (b) plots to which roads are provided by the scheme, and (c) plots obliterated.

In respect of demolition full compensation for the building demolished as allowed in all cases. Category 'A' of plot compensation allows for full compensation for loss of area. 'B' for any diminution exceeding 20 per cent, while 'C' provides a new plot as near as possible in position and of equal or superior size and value to the original. This we regard as fair and reasonable, and we cannot in principle accept any other liability.

6. It is however true, although the objectors do not mention it, that in certain cases of hardship might arise where a building is demolished and the owner of that building does not own the plot on which it stands. In spite of receiving full compensation he might find himself embarrassed

by the difficulty of securing a new plot on which to build at an equally small rental. The point has been engaging the attention of the authority and so anxious are we to ensure that no person shall suffer preventable hardship through the scheme, that we are prepared to accept the inclusion of a clause for the allotment of building sites either free of charge or at a very low rental in deserving cases.

You will have noticed that our compensation figures provide for the demolition of 360 huts at £90 each. Any of the owners of these huts who do not also own the plots on which they stand would be considered as deserving cases.

8. Petition 1 at the end of the same paragraph states:

The last scotch will be recourse to moneylenders with payment of ruinous interest and loss of our land. It cannot be too strongly stated that with a few notable exceptions the Arabs have for years past been having recourse to moneylenders and a very large proportion of their land both here and at Zanzibar and in Lamu and all along the coast has already been mortgaged to Indian traders. We do not suppose that either the Town Plan or anything else will stop the practice. Whether there is a Town Plan or not, the Arabs through their own fault are losing their land.

9. We wish emphatically to deny that the Town Plan in any way discriminates between races. We also draw attention to the fact that out of the loan of £100,000 a total of £62,601 is allocated to compensation and only £31,677 to construction (see our T.P. 1 of 4/11/24).

10. Paragraph 2 (b) and (c) of Petition No. 1 and paragraph 5 of Petition No. 2 object to the tax on unimproved site values being based on the present value of land which they contend to be a false value based upon hopes of future progress. And they contend that the value of land will go down. Why then do they object to receiving compensation at the present value? The very fact of the approval of a Town Plan will be the principal factor in giving some stability to those high hopes on which the land values are based. Moreover it does not require a financial expert to appreciate that land on which development is impossible will increase in value if it is made accessible for development.

11. Paragraph 4 (d) of Petition No. 1 and paragraph 6 of Petition No. 2 further object to the proposed site value tax on the ground that it penalises owners for not building

when there is no demand for houses. For the raising of funds in townships the tax on undeveloped site values is usually considered the most equitable form of taxation. If any owner considers that his land is valued too highly he can appeal against the valuation. Valuations also are reconsidered at various periods of time. There would perhaps be fewer complaints if a proviso were inserted that, if the landholder claims that his land is valued at too high a rate by the Government valuers, the authority should have the power to take up the land at that valuation.

12. The objectors evidently do not grasp the principle of an unimproved site value tax, for they appear to assume that, if a plot is built upon, it will not be taxed.

13. Paragraph 4 (e) of Petition 1 somewhat obscurely and paragraph 7 of Petition 2 more plainly asks that no tax should be levied until the road is completed and that there should be no appropriation of land until such as actually required for the purposes of the road.

As regards the second part of this request we have explained our position very fully in paragraphs 9-12 of our No. 5/9 of 29/8/24 and we stand by it. The first part of the request overlooks the fact that particular groups of landholders are not being asked to pay for particular roads, but the cost of roads is to be met out of loan funds, for which we are to find the interest by an undeveloped land tax. The roads will be put in as rapidly as possible according to a prearranged scheme and it is hoped that the benefits will be as equally distributed as the burden of taxation.

14. Paragraph 4 (b) of Petition 1 and paragraph 8 of Petition 2 contend that the immediate effect of the scheme will be to render land cheaper in the main thoroughfares. We doubt this, and in any case it only amounts to a contention that plot holders on the Kilindini and other main thoroughfares are profiting by keeping the rest of the Island undeveloped.

15. In paragraph 4 (b) of Petition 1 and paragraph 9 of Petition 2, the objectors have evidently misread paragraph 28 of the scheme which says:-

- (1) Warehouses are to be allowed only on a certain definite area—the area edged Payne's grey on the map.
- (2) The area edged Prussian blue on the map are reserved for residence alone.

(3) Shops, business premises and trade premises will be allowed anywhere except in the areas edged Prussian blue.

There appears to be no objection to wholesale dealers conducting their business, if they wish to do so, in the area edged Payne's green.

16. The alleged exception of Mbaraki from the scheme mentioned in paragraph 4 (g) of Petition 1, to the tone of which we take grave exception, and in paragraph 10 of Petition 2 was in no way made to suit any private convenience. To speak strictly, it has not been excepted, Mbaraki is a large plot which is to be intensively developed, and Major Grogan had the sanction of the Town Planning Authority to put up a plan for consideration by the authority and that plan was approved.

17. Paragraph 4 (h) of Petition No. 1 and paragraph 11 of Petition No. 2 state that to put restrictions regulating the use of private land is an inequitable and even unlawful interference. Not only may the authority legally do this, but it must do it (vide 8 (c) of the Town Planning Ordinance, 1919, which has received the Royal Assent).

18. Paragraph 12 of Petition No. 2 criticises what is simply a summary provision.

19. Paragraph 13 of Petition No. 2 suggests that roads ought to be made out of general revenue. This, however, cannot be.

20. On the summary in Petition No. 2 our comments are as under—

(i) The principle alleged does not exist. The real principle is compensation for loss and recovery of betterment—with this advantage to the plot-holder, that if the betterment exceeds the loss the Government can only claim half the balance of betterment, but, if the loss exceeds the betterment the plotholder may claim compensation for the whole balance of loss (section 12 (i) and 12 (3) of the Ordinance).

(ii) We stand by the assumption.

(iii) We stand by the principle.

(iv) We see no reason to apprehend that the assessment will be excessive. Plot compensation will be paid on the basis of the assessment.

(v) The compensation payable to the other owners has been assessed on a generous basis.

In addition to compensation for any building demolished any small Arab or native householder will be allotted a site free of which he may build if he desires.

21. We have only to add that the letter attached to Petition No. 1 and dated 12th March, 1923, has already received full consideration. The present scheme of paying for road construction out of loan funds was designed to meet the legitimate objections of this letter, and we are surprised to find it presented again at this date without any reference to that fact.

S. H. FAZAN, Resident Commissioner
Chairman, Town Planning Authority

[Objection 9.]

MOBASA.

30th October, 1924.

THE HON'BLE THE COLONIAL SECRETARY,
THE SECRETARIAT, NAIROBI.

Sir,

Re: Plots Nos. 11 and 12, Section No. 3, Balm Road, Mombasa.

On behalf of the Bohra Daudi Janat, of Mombasa, I have the honour to put before you the following difficulties which will arise out of the replanning of Mombasa Island on the basis of the proposed Town Planning Scheme, in respect of the above-named two plots, which are held, occupied, and enjoyed by the Bohra Community of Mombasa for their social, religious and sanitary purposes.

Up to now these two plots are joined to one another, but by this replanning and resurvey these two plots are divided by a road which passes in the middle of these two plots, thus making them totally useless for the purposes for which the community had purchased them.

Both the above plots are of the ownership of the Bohra Community of Mombasa and as these plots are possessed and seized by them for special purposes, they do not see any justifiable reason to divide the said plots by a road passing in the middle.

Under these circumstances my clients object to the proposed replanning of Mombasa under the proposed Town Planning Scheme so far as the planning and survey relate to the above properties, and my clients hope that you will kindly issue instructions to be issued to amend the draft plans already published, and will inform my clients through me that the Government has favourably considered their objections.

I have the honour to be
Sir,

Your obedient servant,

A. B. PATEL,

[Refers to Objection B.]

RESIDENT COMMISSIONER'S OFFICE,
MOMBASA,

5th January, 1926.

THE HON'BLE THE COLONIAL SECRETARY,
NAIROBI.

MOMBASA TOWN PLAN

Objection by Mr. A. B. Patel on behalf of the Bahra Daud
Janat - Plots Nos. 11 and 12, Section 3, Salim Road.

Ref. Your No. 16201/1/823 of 5/11/24

We suggest that the objector should either himself visit or depute someone on his behalf to visit the Land Office at Mombasa and inspect the plan, for we believe that his objections are made under a misapprehension of the true facts of the case. The present plan shows no such road. If subsequent modification should necessitate a road being put in, notice would be given and interested parties would be able to object.

S. H. FAZAN, Resident Commissioner,
Chairman, Town Planning Authority.

[Objection 10.]

RIVER ROAD, NAIROBI

8th November, 1924.

THE HON'BLE THE COLONIAL SECRETARY,

NAIROBI.

MOMBASA TOWN PLANNING SCHEME

Sir,

I have the honour to lay before you the following objections to the scheme:

(1) My objection to the principle of acquisition without compensation.

(2) My objection to the principle of taxation of unimproved sites which will overburden the landowners.

(3) My objection to the fact that the landowners, or the public of Mombasa, who are called upon to make immense sacrifices, have not adequate voice in the administration of the public affairs of the Island, and will have no voice in the regulation of the expenditure of the large loan required. In other words Mombasa possesses no municipality, and that steps in this direction should precede any steps to saddle the Mombasa public with the responsibility of public debts. It is said that time has not arrived for Mombasa to possess a municipality, but I consider this to be only a convenient expression. The very reason that the time has come to spend large sums on Mombasa and to throw the responsibility for such sums on the public demands that the public shall regulate the expenditure, the payment of the interest, and ultimately the payment of the loan itself.

I have the honour to be,

Sir,

Your obedient servant,

E. DIAS.

[Refers to Objection 10.]

RES. No. T.P. 4/589/14.
RESIDENT COMMISSIONER'S OFFICE,
MOMBASA,
7th January, 1926.

THE HON'BLE THE COLONIAL SECRETARY,
NAIROBI.

MOMBASA TOWN PLANNING SCHEME.

Objection by Dr. E. Dias dated 6th November and forwarded under cover of your No. 16201/1/8/27 of 10th November, 1924.

We submit the following reply to the above objections:

(i) If the objector will read the scheme carefully and also paragraph 7 of the Gazette Notice (No. 291 of 10/9/24) he will see that no such principle exists as acquisition without compensation. But betterment in certain defined cases is set off against compensation.

(ii) It is amply shown by figures in our possession that the taxation to meet the necessary interest and sinking fund charges on the loan will not be burdensome.

(iii) As soon as it is in the best interests of Mombasa that there should be a municipality, we believe that there will be a municipality. We see no reason to discuss the question here.

H. FAKAN Resident Commissioner,
Chairman Town Planning Authority.

[Objection 11.]

MOMBASA,
17th April, 1926.

TO THE HON'BLE THE COLONIAL SECRETARY,
NAIROBI.

Sir,

I, Percival Herbert Clark, of Mombasa, in the Kenya Protectorate, merchant, as Trustee of the Estate of Elliot Marie Louise Bonstead, deceased, beg leave to object to the Town Planning Scheme for the Island of Mombasa, advertised in the Mombasa Times on the 29th March, 1926, in so far as the Town Planning Scheme affects the plot now shown on the plan as No. 275R, on the following grounds:

1. So much has been cut off the plot on the left-hand side of Sheriff Bhai Street that what remains of this plot is virtually useless for any purpose. I would suggest,

therefore, that the portion of the plot which will be left under the Town Planning Scheme be taken over by the Town Planning Authority, under the provisions of Section 14 of the Town Planning Ordinance of 1919. I have little doubt that an agreement as to the amount of compensation to be paid could be arranged, but this agreement would require the sanction of the court, to give it validity, as the property is trust property, and I, as trustee, have no power of sale without the sanction of the court.

2. The plot on the right-hand side of Sheriff Bhai Street does not comply with the provisions of Section 17-C of the Ordinance, which reads:

"The value of each new plot or holding shall be at least equal to the value of the original plot or holding for which it is substituted, otherwise the owner or holder may claim, and shall receive, as compensation, an amount equal to the difference in such values."

In this case also my objection to the Town Planning Scheme can be settled by compensation in accordance with the provisions of the section quoted.

For the Trustees of the late E. M. L. Bonstead

P. H. CLARKE, Trustee.

[Refers to Objection 11.]

No. 347/T.P.9

RESIDENT COMMISSIONER'S OFFICE,
MOMBASA,

21st April, 1926.

THE HON'BLE THE COLONIAL SECRETARY,
NAIROBI.

TOWN PLANNING SCHEME.

Ref. Your No. S "C" 16201/8/11/8 of March 17th.

With reference to Mr. P. H. Clarke's objection to the Town Planning Scheme.

(1) The increased width of Sheriff Bhai Street advocated by Mr. Jameson reduces the area of Plot No. 275R to the left of that street to very small dimensions. Owing to the railway

line and permanent buildings it is impossible to increase the area. In an of the opinion, therefore, that compensation should be made for the entire plot.

(2) Whether or not Plot No. 3591 to the right of Sheriff Bhai Street complies with the provision of Section 17 G, of the Ordinance can only be ascertained when an accurate survey has been made of the area after the pooling scheme has been applied. It is easily conceivable that a smaller area or less with road access may be of equal or greater value to a larger without such access. After survey, should the value of the plot remaining to Mr. Clarke be less than that of the area he holds today, compensation for the difference should be made.

T. AINSWORTH DICKSON,
Resident Commissioner.

[Objection 12.]

MORRISON AND ALLAN,
Advocates and Notaries.

MOBASA.

24th April, 1936

THE HON'BLE COMMISSIONER, SECRETARY,
NAIROBI.

Sir,

Re: Town Planning Ordinance, 1919, Gazette Notice No. 167.

We have the honour to inform you that on behalf of the clients hereinafter mentioned, we give notice of objections to the draft order approving of the Mombasa Town Planning Scheme.

1. The pooling of all plots on the Island should not for part of the scheme, thus enabling every individual who has an objection with regard to detail with regard to a particular plot, having to make an objection to the scheme. Until the roads provided for by the scheme are made, the disturbance of existing plots is unnecessary and undesirable and to apply the whole pooling scheme at once would be the cause of excessive and unnecessary interference.

2. The scheme does not take into account that persons with plots on the existing roads should not be required to lose part of the area merely for road widening, particularly on such a road as Kilindini Road. Such areas are entirely different from the back-blocks where the principle of taking land for roads without compensation is perfectly fair. Land required for the widening of the Kilindini Road should be acquired under the Land Acquisition Act.

These principles are not observed in the scheme and we have accordingly been obliged to advise our clients much to our regret that their only safe course is to object to the scheme.

These objections are supplementary to objections already lodged on behalf of various clients to the scheme.

We make these general objections on behalf of the following:

- (1) Major Francis Charlesworth, Mburati Shamba.
- (2) Mr. Pocsaner and the Executors of Mrs. Clifton Forte, Wakf Land Mwanj Mwa, between the Police Lines and White Fathers.
- (3) Messrs. The East Africa Industries, Ltd., land on Kilindini Road.
- (4) Mrs. Clifton Forte's Executors, land with bungalow on Kilindini Road.
- (5) Mr. A. Morrison, land near Zisana, Makupa.

The following are particular objections to the scheme:

(1) MAJOR F. CHARLESWORTH.

The fact that Major Charlesworth gifted certain land to the Crown subject to certain guarantees for the purpose of making roads has not been taken into account. The special value of his frontage on the railway has not been taken into account. In fact Major Charlesworth should have received a larger area instead of a smaller as this frontage was reduced.

(2) MR. POCANER AND EXECUTORS OF MRS. CLIFTON FORTÉ.

To this land the second general objection particularly applies. The property consists of a number of building plots laid out many years ago with the assent of the authorities at the

time. A certain number of plots have been disposed of, the residue remaining with our clients, they being lessees of the Wakf Commissioners. The plots which have been subject by our clients have been given undue preference over those remaining in their hands.

(3) MR. A. MORRISON.

It is unlikely that the roads shown on the plan in the neighbourhood of this property will be made for a considerable number of years.

The position of the new plots under the pooling scheme differs considerably from the situation of the existing plot. The result is that the owner will be deprived of a number of trees from which a small revenue is derived at the present moment, on which the compensation will be difficult to assess.

We have the honour to be,

Sir,

Your obedient servants,

MORRISON AND ALLAN

[Objection 13.]

THE KHOLA SHIA TRUST ASHABI (KUYVATUL ISLAM) JAMATH,
MOMBASA.

P.O. Box 58,

MOMBASA.

25th April, 1926.

THE HON'BLE COLONIAL SECRETARY,

NAIROBI.

Sir,

I have the honour to approach you on behalf of my community with the request to kindly let me know at your earliest possible convenience whether the Town Planning Scheme is going to touch any plot reserved legally for religious, ceremonial or burial purposes.

My community is the registered owner of plot No. 47 of Section 2, Mombasa, which is solely and wholly reserved for burial ground and is utilized as such for the last 25 years.

It has come to the knowledge of my community that Government intends to use this plot as public wayfare which has terribly upset them, and I have asked to lodge in their very strong protest, which I do herewith, and hope the English tradition of always respecting and never injuring religious feelings of any individual or community in general will be taken uppermost in this respect.

I am,

Yours faithfully,

HAJI JIVRAJ MEGJI AND SONS,

Rashtani

[Objection 14.]

MOMBASA,

23rd April, 1926.

TO THE HON'BLE THE COLONIAL SECRETARY,
NAIROBI.

Sir,

MOMBASA TOWN-PLANNING SCHEME

We beg firstly to refer you to our objections previously submitted and dated respectively 19th March, 1925; 16th March, 1924, and 29th October, 1924, and we enclose herewith for your information copies of the above memoranda of objections—see Objections 1, 2, & 3.

Further to those objections we beg to submit the following—

Firstly.—The property owned by us is not property which has been purchased by way of speculation, but is property mainly inherited from our forefathers.

Secondly.—That in making estimates in connection with this scheme the Authority has not sufficiently considered the increase in the Customs revenue which will be as a result of the erection of new buildings as soon as ever permission is fully given to build.

Thirdly.—We feel that this scheme under which such a large proportion of our land is being taken for public purposes is contrary to the spirit of the old agreements with His Highness the (then) Sultan of Zanzibar—Seyyid Khalifa. We

have in our possession still a letter from His said Highness addressed to the elders and people of Mombasa to the effect that if the Government wanted any land for a public purpose such land should be sold to Government for that public purpose and we feel it is unjust to us protected peoples, placed as we now are, to take our lands without payment, so as thereafter to make us pay taxes which (as has previously been pointed out and emphasised) will have the result of still further depriving us of the little land you left to us.

We accordingly trust that these further objections will be duly considered and modifications introduced to meet the case of the protected people in our position, of whom we must take it the Government will consider itself in the position of a trustee.

We beg to remain,

Sir,

Your obedient servants,

RASHID BIN SOOD,

And thirteen other Arab
Baluchi and Swahili land-
owners.

(Objection 15.)

AHMED JAMEL,

C/O HASHAM JAMAL & Co.,
P.O. Box 64 MOMBASA

MOMBASA,

27th April, 1926.

TO THE HON'BLE THE COLONIAL SECRETARY,
NAIROBI.

Sir,

Re: MOMBASA TOWN PLANNING SCHEME.

I, the undersigned, an attorney of His Highness Sir Sultan Mohamed Shah Aga Khan, G.C.M.O., G.C.S.I., G.C.I.E., LL.D., beg to lodge my objections in regard to Plots 622 of Section III, 624 of Section III and 299 of Section V which have by Government Notice No. 181 (Official Gazette of March 31st, 1926) been declared and required for a public purpose, to wit, road construction

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The three plots above specified are all the property of His Highness Sir Sultan Mohamed Shah Aga Khan, G.C.M.O., G.C.S.I., G.C.I.E., LL.D., he being the registered proprietor thereof.

Plot 622 of Section III is our Jamal Khana and Plot No. 624 of Section III is land bought for the use of the Jamal Khana, that is to say, for a religious purpose.

The compulsory acquisition of these plots will work a great hardship on the followers of His Highness in Mombasa for whose religious benefit the said plots are used. I trust that the matter will receive your most earnest consideration and that it will be found possible to make such amendments as will obviate the necessity for the acquisition of the said plots.

I beg to remain,

Sir,

Your obedient servant,

AHMED JAMAL.

(Objection 16.)

MOMBASA,

27th April, 1926.

TO THE HON'BLE THE COLONIAL SECRETARY,
NAIROBI.

Sir,

MOMBASA TOWN PLANNING SCHEME.

We the undersigned landowners of Mombasa beg to refer you in others as follows:

The memorandum of objections to the Mombasa Town Planning Scheme submitted to you dated 25th October, 1924, and to confirm the same. A copy of the said memorandum is submitted for your convenience—see Objection 3.

We object most strongly to the taxation which will inevitably follow on the said scheme. To judge from the past, it should be clear that whatever, and howsoever laudable, the desire to improve or to lay down a general scheme for the improvement of Mombasa the town is not in a position to bear the cost of such a scheme. The special circumstances to

which we refer in the past are the buildings which have been erected along the Kilindini Road West or, say, Houstead and Clarke's Building. The three most notable are—

(1) The building of Dr. E. Dias (now practicing at Nairobi) opposite the Municipal Police Lines and now in use as the Arab School, and (2) and (3) Mr. MacJohn's building, Tangana Hall, and the adjoining two-storeyed building.

We are correct in saying other than as a boxing hall during the visit of the Naval Squadron and as a dancing hall as a sort of annexe to the Metropole Hotel the Tangana Hall (on the same proprietorship as until lately the Metropole Hotel Building) has never been used and has produced no income since it was built in or about the year 1921. The adjoining building has at times been let, it is true, but it is clear that there is no real demand for buildings along that road. If then that is the position along the main road of the town we really fail to see what justification there can be, and submit that there can be no justification, for any anticipation of increased building development as an immediate result of the scheme.

Further, the administration as we understand, on the point of putting up for sale by private auction some 21 building residential plots at what is known as the lighthouse area which is the best residential area and anyone knowing Mombasa and its needs will readily admit that that meets the residential needs of Mombasa for some considerable time. Further to the position of affairs with reference to the 13 Kilindini plots sold some 15 years ago in which not more than five buildings have been erected so far, as also to the 99 plots adjoining Kilindini Railway Station sold some 10 years ago the majority of which are still unbuilt upon. Holey Road was acquired from the landowners on that road some time ago, other than four houses near the Salim Road corner, not all occupied either, and a hotel and one European-owned and occupied building and possibly improvements to the Hindu Crematorium, there has been no building development in that area either. On this road in particular the Lwali Seyyid Ali bin Salim Elbuseyd divided his land into building plots and sold a number of these plots but there has been no building development other than the one European-owned building already referred to.

The instances given may be referred into and we have no doubt that the fact will be found to be substantially correct. That being so it should be appreciated that any taxation of lands in Mombasa assessed on the basis of a probable future

value will be harsh and a hardship on lands potentially valuable it is true, but at present unproductive because of the unchangeable economic law of supply and demand.

The position then as we understand and submit is that a large capital outlay is to be made and up to 50 per cent. of our lands taken in return for which we are not likely to gain any benefit but which sum we shall have to repay with interest.

Making these further submissions and emphasising the above aspects of the state of affairs in Mombasa we trust that the general position be further reviewed with a view to avoiding the imposition of an inequitable harsh and unnecessary tax and the adoption of a sounder and more practicable scheme—more practicable and less harsh from the point of view of the persons who will be called upon to pay for the same.

We beg to remain,

Sir,

Your obedient servants,

A. M. JEEVANJEE & CO.
SHAH HIQI KARA & CO.
SOUZA JUNIOR & DIAS.
HASHAM JAMAL & CO.
(and other landowners)

[Refers to Objection 12.]

16201/L/S/II. No. 354/T.P.9.

RESIDENT COMMISSIONER'S OFFICE,
MOMBASA,

30th April, 1926.

THE HON'BLE ACTING COLONIAL SECRETARY,
NAIROBI.

MOMBASA TOWN PLAN.

Objections by Messrs. Morrison and Allan and the Khoja, etc.
Community.

I.—FIRST GENERAL OBJECTION.

It is understood that this is not an objection to the actual lay-out for which final approval is sought, but either an objection to the principle of pooling or a suggestion that it would be more equitable to carry out the pooling sectionally.

If the objection is on the former grounds it is necessary to restate the principle that the land is taken for the purpose of providing all owners of land with convenient property boundaries and with roads of access thereto in order that the value of the property might be increased and a proper system of communication established. Building can only take place when the new boundaries are known.

If the objection is against wholesale pooling, it is urged that sectional pooling is neither practicable nor in accordance with the principles of the Town Planning Ordinance. Apart from its value as a property improvement scheme the Town Plan is a road scheme and the effect of what may be termed a local option in the matter would conceivably be that no through road would be completed throughout the Island.

Further to this objection, the provisions of Section 17 of the Town Planning Ordinance, 1910, would be violated in that it would not then be possible to make an equal deduction from all plots or holdings included in the area of the scheme.

II.—SECOND GENERAL OBJECTION.

Here again the presumption is that the increase in the value of the land remaining will be greater than that of the original plot. It is, however, recognised that where a loss in actual value occurs compensation will be made. It appears not to be generally understood that the basis of comparison is necessarily value and not area.

III.—SPECIFIC OBJECTIONS.

1. Major Charlesworth.

In the absence of a conveyance the gift was not known to the authority and the matter would appear to be between Major Charlesworth and the Government.

The matter of frontage is recognised as important. It is possible to give him an additional railway frontage of 550 feet to the north, and it is proposed to offer this and, if it is not acceptable to refer the matter to arbitration as to the relative values of the original frontage and that now offered. Alternatively he could retain the plot as at present described.

2. Mr. Foesner and the Executors of Mrs. Clifton Forte and 3. Mr. Morrison.

To both these objections the answer given to the second general objection applies. Compensation can be given in either case. That of Mr. Morrison's trees does not appear to

present any particular difficulty. Compensation for trees is constantly being given in Mombasa and is regulated by well-known principles.

IV.—THE KWOJA ETO COMMUNITY.

The land in respect of which objection is made has been inspected. There are no graves upon it, and it is, in fact, walled off from the cemetery and used as a segregation area. There are certain buildings which do not appear to be used for any particular religious purpose and for which compensation could be given.

C. O. USHER,

for Chairman, Town Planning Authority.

[Objection 17.]

M. S. MAJOHN.

MOBASA,

8th April, 1934.

TO THE HONORABLE THE COLONIAL SECRETARY,
NAIROBI.

Sir,

Reference to Plot No. 13, Section II, I beg to draw your attention to the existing right-of-way to the west of the plot was the subject of a free grant from me to the Government. Under the present pooling scheme I find that a portion of my original plot is cut off from direct access to the proposed new station and it is to be given to the owner of Plot No. 12, who to-day owns an exceedingly small percentage of this plot.

Under the circumstances, I consider that I should be given a portion of this plot called 12B on the new plan or the plot should be deleted entirely from the plan, in which case I am prepared to accept the plot as given to me in the new plan.

In the event of 12B being deleted the owner of 12B, who also owns Nos. 13A and 10, can be given land of Plot 11, which is Crown land.

I have the honour to be,

Sir,

Your obedient servant,

M. S. MAJOHN.

[Objection 18.]

MOOSAJEE JEEVANJEE,
General Merchant.

MOMBASA,

27th April, 1926

TO THE HON'BLE THE COLONIAL SECRETARY,
NAIROBI.

Sir,

MOMBASA TOWN PLANNING SCHEME.

We beg to refer you to our letter of objections submitted to you to Mombasa Town Planning Scheme, dated 25th October, 1924, and to confirm same. A copy of the said letter* is submitted for your convenience.

Besides the memorandum of objections dated 27th April, 1926, jointly submitted to you by the landowners of Mombasa, we beg permission to submit our own further objections that we strongly object to the land given to the owners of Plots Nos. 94/11/2, 94/11/3, 94/11/4 and 75/11/18 from our Plot No. 94/11/5.

Faithfully yours,

MOOSAJEE JEEVANJEE

*See page 36.

TELEGRAM FROM MESSRS. A. J. SIMON AND BROTHERS, MONROE, LA.
RECEIVED 17th MAY, 1926.

ADMINISTRATIVE MATTERS

Objection dated October 1924 by Board of Trustees to Town Planning Scheme withdrawn by arrangement with authority.

ADVISE.

No. 368/T.P.9.

Resident Commissioner's Office

Mombasa, 11th May, 1926.

The Hon'ble

The Acting Colonial Secretary,

Nairobi.

MOMBASA TOWN PLANNING SCHEME.

With reference to the petition from certain Arabs and Swahilis putting forward objections to the Town Planning Scheme: - OBJECTION 14 - I am desired by the authority to refer you to its resolution forwarded in this Office No. 35/26 of May 16th, 1924, - see p.32 - in regard to previous petitions by the same signatories i.e. that the principle of surrender of land without compensation is the basis of Town Planning and if that is given to the Town Planning Scheme will have to be abandoned.

In your information I may add that of the

- 3 only are land owners of any importance
 2 " " " holding about 5 acres each
 4 " " " " " 2 1/2 " "
 1 has all his land leased to Government.
 2 has no land in the Town Planning Area.
 1 is dead

Signed T. AINSWORTH DICKSON,

CHAIRMAN,
TOWN PLANNING AUTHORITY.

Nt. 353/T.P. 9
 Resident Commissioner's Office
 Mombasa, 8th May, 1926

The Hon'ble
 The Acting Colonial Secretary,
 Nairobi

MOMBASA TOWN PLANNING SCHEME - OBJECTIONS
received, Year P.O.S. "C" 16201/1/8/11/14 of 8th May

Refers to Objection 16
Objection in respect of Plots 622 & 624 of Section III and
Plot 59 of Section V.

These plots are not included in the area of the Town
 Planning Scheme but are in the Old Town.

I have no doubt that when the first road-way is
 surveyed it will be seen that the compulsory acquisition of a
 road-way will considerably
 enhance their value.

Refers to Objection 16
Objection in respect of Plots 622 & 624 of Section III and
Plot 59 of Section V.

The general objection to the principle of
 compulsory acquisition of land for the Town Planning
 Scheme is that the land should have been
 acquired before the scheme was introduced that the general
 principle of compulsory acquisition is an immediate result
 of the scheme.

The objection is that the preparation of a
 Town Planning Scheme is an immediate result of the
 scheme it is for

Yours,

W. H. G. ...

...

...

The Hon'ble
The Acting Colonial Secretary
Nairobi

ROKESA TOWN PLANNING SCHEME - OBJECTIONS
Refile your No. S/C 16201/1/8/11/20 of 4th May

Refers to Objections 17 & 18
I am directed to forward the following replies to
objections by Mr. M.S. MacJohn and Mr. Mopsajee Jeevanjee.

1. Mr. MacJohn

This objection appears to us to be eminently reasonable.
It is, therefore, proposed to eliminate plot 12b and to
compensate the owner of that plot by granting him a portion
of plot 71.

2. Mr. Mopsajee Jeevanjee.

(a) We are of opinion that the objection in respect of
small plots of Section 11 is based upon insufficient
grounds. The owners who retain land at the expense of the
objector would, if he retained the land now allocated to them
under the plan, be practically eliminated. The question is
whether the objector should receive compensation for the
area exceeding 20% which he loses or retain his land to the
practical exclusion of these small land owners. It appears
to us just and reasonable to adopt the former course which
accords with the provisions of Section 17 (f) of the Town
Planning Ordinance 1919 and is generally more equitable.

(b) Objections dated 25th October, 1924: i.e. Objection 7

1. This can be done at the time of final survey as agreed
with the objector in our recent interview with him.
2, 3, and 4. These adjustments have been made in the
manner requested.

(Sd) C.E. Usher.
For Chairman
Town Planning Authority.

ATKINSON & WRIGHT,
ADVOCATES, NOTARIES &
COMMISSIONERS FOR OATHS.

P.O. Box 29,

MOBASA,
EAST AFRICA.

3rd May, 1926.

Sir,

Town Planning Scheme - Houstead Trust.

We are in receipt of your letter No. S/C.16201/1/B,
Vol. 11/5 of the 27th ultimo, with enclosures.

We note the recommendations of the Resident
Commissioner but we should require to know whether the
Government is prepared to accept these recommendations
before we could advise our client to withdraw his objections.

In principle, we should advise our client to accept
a settlement on the terms set out in the Resident Commissioner
letter, if these terms had been agreed to by the Town Planning
Authority and the Governor General in Council.

We do not recognize the Resident Commissioner, acting
in that capacity and signing in that capacity, as binding the
Town Planning Authority or the Government.

Yours faithfully,

(Signed) ATKINSON & WRIGHT.

The Gen. The Colonial Secretary,

The Secretariat,

NAIROBI.

THE SECRETARIAT,
NAIROBI.

S/C 16201/1/8/11/5.

27th April, 1926.

Gentlemen,

With reference to your letter of 12th April, in view of the comments of the Resident Commissioner, Mombasa, in the attached letter, I should be glad to know at your earliest convenience whether Mr. Clark is prepared to withdraw his objections.

I have the honour to be,

Gentlemen,

Your obedient servant,

(Sgd.) J. LOGAN.

For ACTING COLONIAL SECRETARY.

MR. W. ATKINSON & WRIGHT,
P.O. BOX 29,
NAIROBI, K. A. S. A.

THE SECRETARIAT,

NAIROBI.

S/C" 16201/1/8/14/8.

27th April, 1926.

Gentlemen,

With reference to your letter of 12th April, in view of the comments of the Resident Commissioner, Mombasa, in the attached letter, I should be glad to know at your earliest convenience whether Mr. Clark is prepared to withdraw his objections.

I have the honour to be,

Gentlemen,

Your obedient servant,

(Sgd) M.E. LOGAN,

for ACTING COLONIAL SECRETARY.

M.S. ATKINSON & WRIGHT,
P.O. BOX 29,
N. O. M. A. S. A.

COLONY AND PROTECTORATE OF KENYA.

LEGISLATIVE COUNCIL.

SPEECH

BY

H. E. THE GOVERNOR,

LT. COL. SIR EDWARD GRIGG,
K.C.V.O., C.M.G., D.S.O., M.C.

26TH MAY, 1926.

PRINTED AT THE GOVT. PRESS, NAIROBI.
1926.

H. E. THE GOVERNOR'S SPEECH
TO LEGISLATIVE COUNCIL

MAY 26TH, 1926

His Excellency the Governor's Speech to Legislative Council.
20th May, 1936

HONOURABLE MEMBERS OF COUNCIL,

Before addressing you on the business on which Council has been called together this week, I am sure you would all wish me to express the pleasure of the Colony at the presence in our midst of His Excellency Admiral Ellerton, Commander-in-Chief of the East Indies Squadron, and to say how gladly we have welcomed the Naval detachment to Nairobi. The Royal Navy is one of the mainstays of the British Empire. There would be no Colonies if there had been no Navy. We treasure it in this Colony, and I am sure I speak for everyone in its welcome with particular pleasure all visits which can be paid to us by the East Indies Squadron. We are glad to have them with us this year, and we look forward to a more extended visit next year.

The business before Council this week is practical but unemotional. I have called Council together, not because there was any great urgency in the matters you will have to discuss, but because I am particularly anxious that Council throughout the year should keep well abreast of its business so as to avoid undue haste in the discussion of important questions, and so as to avoid in particular the accumulation of arrears.

The first business which you will have to discuss is a Supplementary Estimate. It is a large estimate, but I am glad to be able to inform you that the increase of expenditure is more than balanced by an increase in the estimated revenue and that there is no reason to anticipate anything but the existence of a surplus, and I hope, a considerable surplus, at the end of the year. The purposes for which the Supplementary Estimate is presented are necessary and urgent ones. The first purpose is an increase in the stations and staff of the police in different parts of the Colony and in particular in the Northern Frontier Province. The Commissioner of Police has been encountering many difficulties, particularly with regard to personnel, in the reorganisation of the force which he has undertaken. I hope that everybody in the Colony realises that so far as the police are concerned this is a period of transition and that the police is suffering particularly from

H. E. the Governor's Speech to Legislative Council.

26th May, 1926

HONOURABLE MEMBERS OF COUNCIL,

Before addressing you on the business in which Council has been called together this week, I am sure you would all wish me to express the pleasure of the Colony at the presence in our midst of His Excellency Admiral Ellerton, Commander-in-Chief of the East Indies Squadron, and to say how gladly we have welcomed the Naval detachment to Nairobi. The Royal Navy is one of the mainstays of the British Empire. There would be no Colonies if there had been no Navy. We therefore, at this time, as I am sure I speak for everyone in it, welcome with particular pleasure all visits which can be paid to us by the East Indies Squadron. We are glad to have them with us this year and we look forward to a more extended visit next year.

The business before Council this week is practical but unseasonal. I have called Council together, not because there was any great urgency in the matters you will have to discuss, but because I am particularly anxious that Council throughout the year should keep well abreast of its business so as to avoid undue haste in the discussion of important questions, and so as to avoid in particular the accumulation of arrears.

The first business which you will have to discuss is a Supplementary Estimate. It is a large estimate, but I am glad to be able to inform you that the increase of expenditure is more than balanced by an increase in the estimated revenue and that there is no reason to anticipate anything but the existence of a surplus, and I hope, a considerable surplus, at the end of the year. The purposes for which the Supplementary Estimate is presented are necessary and urgent ones. The first purpose is an increase in the stations and staff of the police in different parts of the Colony and in particular in the Northern Frontier Province. The Commissioner of Police has been encountering many difficulties, particularly with regard to personnel, in the reorganisation of the force which he has undertaken. I hope that everybody in the Colony realises that so far as the police are concerned this is a period of transition and that the police is suffering particularly from

an inevitable shortage of officers. I am fitting all possible steps—with, I am sure, your full approval—to make this period of transition as short as possible, and I may say I have absolute confidence in the work being done by Colonel Spier, the Commissioner of Police.

The next purpose with which the Supplementary Estimate is concerned is Education. We need plans for the Native Industrial Training Depot at Kabete, a matter of great importance to the Colony at the present time, and we need rather more funds for native education generally. I have been paying considerable attention to the problem of native education. It formed the subject, as you may remember, of an important resolution passed at the Tokuyu Conference, with which the Governors in Conference at Nairobi found themselves in complete agreement. I am convinced myself that the character and the trend of native education lies at the root of the Colony's welfare and money wisely devoted to that purpose cannot, I am sure, be devoted to a wiser object.

There are also considerable sums in the Supplementary Estimate for roads in Nairobi and for the purchase of certain plots in Nairobi. Together this amounts to a sum of over £11,600. With regard to the purchase of plots, this is an essential part of the Town Planning Scheme, and is unquestionably a sound economic outlay. As to the roads, I am sure that dwellers in Nairobi will agree that money spent on roads needs no argument. They are in a bad condition and work on them is presently required.

We have also got a sum of £10,000 for road plant in the Supplementary Estimate, which I am sure is wisely put in, because it will represent not only better roads but a considerable saving in labour on roads.

To summarise the main objects with which this Supplementary Estimate deals are in the first place public safety, about which I think there can be no argument; with certain expenditure arising out of existing commitments, with some of which I will deal later in my address; and finally with certain purposes of public economy and revenue-earning schemes the expenditure on which is met by new revenue. I should like to repeat that the increase of estimated revenue on the year will be good deal more than balance the increase in expenditure. A statement on the financial position will be laid by the Treasurer, which will make the position plain to Honourable Members.

You have also certain Bills before you. Two of them will be introduced for their first reading under a Certificate of Emergency which I have signed. The first is the Opium Act Bill, which deals with the Revised Laws of the Colony, and the second is the Town Planning (Amendment) Bill to adjust a certain grievance which has arisen in Nairobi owing to the fact that the Town Planning programme might suspend building and development in certain ways. The complaint is reasonable and this Bill will put the matter right.

We have also to consider an Estate Duty (Consolidation) Bill. This is a Bill which is intended to bring the Estate Duty Laws of the Colony into line with those in existence in other Colonies. At present they operate in a very unfair manner, and I am certain if not amended they would tend to keep capital away from the Colony.

I hope also that you will give your approval to the Game Birds Protection Bill. It is a tragedy in a Colony like this that game birds should have so largely disappeared, but I hope it is not too late to take adequate steps to protect them. This Bill is designed for that purpose.

The Mombasa Town Planning Scheme is also being laid before Council, and I attach great importance to it. It goes back over a very long period, in fact to July 15th, 1930, and a Town Planning Scheme in Mombasa is long overdue. Certain objections have been taken to the Scheme by residents in Mombasa. They are partly objections in principle and partly objections in detail. The main objection in principle is against the arrangement by which land is taken without compensation for the creation of necessary roads. It is calculated that the value of property thus affected will be increased by at least 20 per cent. by the Town Planning Scheme. The bearing of that provision is fully explained in paragraph 6 of the Memorandum, which has been laid before you, and I have very little doubt that it will meet with your approval. The 20 per cent. figure is in point of fact a very reasonable percentage in Town Planning Schemes. In other Town Planning Schemes the percentage has been placed much higher. In Singapore it is as high as 40 per cent. The figure of 20 per cent. for Mombasa can hardly therefore meet with reasonable objection.

The other objections are objections in detail, and have been considered by Executive Council, which held that they had been fairly met by the Mombasa Authority. Since, however, some of these objections have not been withdrawn, the law requires that the Town Planning Scheme should

be laid before Council during this session in order that an opportunity may be given of moving the rejection in whole or in part should any member choose to do so.

I trust this Scheme will go through. Mombasa Island is a very small area and the port is growing very fast and the figures of increased tonnage are remarkable. It is absolutely urgent and necessary that some scheme should be introduced at once to regulate the development of Mombasa, and I find myself in complete accordance with the objects of the scheme set out in paragraph 4 of the Memorandum, which says—

The object of the Scheme is to provide for the orderly development of the Island in accordance with the modern principles of sanitation and town planning. Access by good roads will thus be obtained for every plot; lines of public travel will be established at convenient intervals, and provision will be made to ensure the health and amenities of the town in a period of rapid expansion which would otherwise lead to overcrowding and all the evils attendant upon it."

I consider the improvement of Town Planning in Mombasa an essential part in the progress and organisation of our port, and I trust all Members of Council will in that matter agree with me.

We shall also be bringing before you a revised scheme of salaries for the Civil Service of the Colony. Members of Council are aware that an increase of 30 per cent. all round on salaries, to form a substantive part of the salary and to be payable, has been recommended for some time past by the Economic and Finance Committee and accepted by this Council. A sum of £19,000 was included in this year's Estimates and voted by Council for that purpose. The Secretary of State laid down and informed Council before that the revision of salaries and the introduction in Kenya of a joint scheme had been agreed with the Governors of Tanganyika and Uganda. In consequence of that decision I attended a conference towards the end of last year at Mombasa, and we arrived at a revised scheme which systematised the application of the 30 per cent. as a substantive part of the salary. The scheme presented by us to the Secretary of State was not as costly as that approved by Legislative Council. An economy has been effected and it will cost about £5,000 less than the £19,000 voted by Council this year. The Secretary of State has introduced one or two further modifications, and the scheme now represents a charge on the Colony which

is considerably less than the sum actually voted. I propose to make a fuller statement on the whole scheme of revision on Friday. In the meanwhile, papers will be laid on the table showing exactly what the revision is, in order that Members may have time to study it.

There is no Railway business, actually before Council at this session, but business affecting us in many ways is at present being carried out in London, and I think it desirable that I should make some general statement on Railway matters to-day. It is a curious thing that when the Railway was entirely confined or practically entirely confined within the boundaries of Kenya Colony and Protectorate it was always known as the "Uganda Railway." Now that it has been extended to Uganda and the main line is about to reach the Nile, under the name in London it will be known as the Kenya and Uganda Railway. This is a remarkable example of the curious manner in which we make history in the British Empire.

The main line is almost completed in Kenya, and will be open to Tokoro at the end of the year. The main line in Uganda will be open to the Nile at Mbulamuti by the end of 1927. What is most important to Uganda and Kenya and the Railway system as a whole is, however, not only the extension of the main line, or the construction of branches, but three other matters which we have dealt with in our application for the £10,000,000 Loan. One of these, the most important, is the improvement of the Port at Kisumu. The second is improvement of the main line, which has been steadily going on, and the third is the provision of adequate rolling stock and workshops. These necessities have been considered in the application which we made for a share in the Imperial Transport Loan, and this was the order of precedence in which we put our requirements—

- (1) Kisumu Port (including Mbaraki)
- (2) General improvement on the main line, to be spent over a period of eight or nine years.
- (3) Increased rolling stock and workshops for existing lines.
- (4) Tokoro-Linja-Kampala Railway Extension, to be completed by December, 1929, I hope.
- (5) An extension via Soroti and Lira towards the Congo and the Sudan.
- (6) Rolling stock and workshops for the new extensions in (4) and (5).

These in total work out to a sum of £5,550,000. That represents one application for a share, so far as railways and ports are concerned, in the Ten-Million Loan. We shall not, of course, be granted the whole of that, but I hope we shall be granted a substantial part of it. We also applied for assistance from the loan in making arterial roads, the chief of which are

- Mombasa to the Tanganyika border.
- Mombasa to Nairobi.
- Nairobi to Uganda.
- Nairobi to Arusha.
- Yala Bridge in North Kavirondo.

The Committee which is dealing with applications for the Ten-Million Loan is still sitting in London and I cannot give Honourable Members of Council further information at present as to how our application will fare; but I have no reason to doubt that at any rate a substantial part of it will be granted.

I should also like to say a word on the question of branch lines, which are properly built both in Kenya and Uganda on a colonial guarantee. We already have the money voted by this Council and provided under existing loan funds for the projected branch line in North Kavirondo. Surveys are proceeding to decide whether that line should best be built from the Tororo line southwards or from Kisumu northwards. The line will tap areas where native production is much on the increase and from which the Colony draws a very considerable part of its labour supply. From both points of view the construction of that line is important to the Colony as a whole. The money is already available in the loan funds and has been approved by Council and I hope that progress may be made with that railway as other railway requirements permit.

Next in order of priority will come the proposed branch line to Thomson's Falls. There are good prospects for that line, and in all probability a still greater return after a short period of development. The area which it will tap is a large one, and I am in favour of proceeding with the construction of that line as other railway undertakings permit at the earliest date possible.

I should also like to say one word on rates. Rates are the foundation of railway finance, and are of course a matter of the greatest importance to producers and exporters in the Colony. I have reason to believe from the trend of opinion

in London that a decision will be given in favour of the construction of the proposed Tabora-Mwanza line. If that decision is given, a rate agreement with Tanganyika Territory will be necessary. I trust that this agreement will be made on lines which take into account the financial system of our own railway and which provide, as I have always thought it necessary to provide, for the demarcation of railway zones. If this cannot be done in the actual construction of railways, it certainly should be done so far as possible by the fixing of rates. That will be one of the most important questions bearing on rates on the Kenya and Uganda Railway that we shall have to deal with in the future.

Great importance from the same standpoint also attaches to the development of Lake Victoria. By the end of next year all the main traffic from Uganda will be carried by rail on the main line from the Nile via Tororo to Kitanda, and a very large part of the fleet on Lake Nyanza will in consequence become idle. There are very great possibilities of development on Lake Victoria by means of feeder roads running to small and inexpensive lighter ports. This system has made possible an immense development of cotton growing in Uganda, the system of lighters drawn by tugs, with feeder roads to the lighter ports. I am convinced that the same system will prove practicable and profitable in the southern half of Lake Victoria. It would employ our fleet, and it would be beneficial to all three territories on the Lake. My predecessor, Sir Robert Coryndon, who went round the Lake in 1923, also attached very great importance to this form of development. Little has been done in the interval, but when I was down at Dar es Salaam the other day I discussed the matter very fully with Sir Donald Cameron, and I look confidently for prompt and practical co-operation on his part in the development of Lake traffic by this means. It is a matter of great importance in all territories on the Lake as well as to the Kenya and Uganda Railway.

I have investigated certain Customs difficulties which are undoubtedly impeding our import trade to the Lake, particularly to Tanganyika Territory. I hope early attention will be given to the Customs difficulties which exist, since these are unquestionably acting at the moment in restraint of trade.

Before leaving the subject of the Railway, I should like to make two other remarks. The first is to express my pleasure and admiration, after a survey of the line throughout its length and of the Lakes with their services, for the efficiency with

These in total work out to a sum of £5,550,000. That represents our application for a share, so far as railways and ports are concerned, in the Ten-Million Loan. We shall not, of course, be granted the whole of this, but I hope we shall be granted a substantial part of it. We also applied for assistance from the loan in making arterial roads, the chief of which are—

- Mombasa to the Tanganyika border.
- Mombasa to Nairobi.
- Nairobi to Uganda.
- Nairobi to Arusha.
- Yala Bridge in North Kavirondo.

The Committee which is dealing with applications for the Ten-Million Loan is still sitting in London and I cannot give Honourable Members of Council further information at present as to how our application will fare; but I have no reason to doubt that at any rate a substantial part of it will be granted.

I should also like to say a word on the question of branch lines, which are properly built both in Kenya and Uganda on a Colonial guarantee. We already have the money voted by this Council and provided under existing loan funds for the projected branch line in North Kavirondo. Surveys are proceeding to decide whether that line should best be built from the Tororo line southwards or from Kisumu northwards. The line will tap off a zone where native production is increasing and from which the Colony draws a very considerable part of its labour supply. From both points of view the construction of that line is important to the Colony as a whole. The money is already available in the loan funds and has been approved by Council, and I hope that progress may be made with that railway as other railway requirements permit.

Next in order of priority will come the proposed branch line to Thomson's Falls. There are good prospects for that line, and in all probability a still greater return after a short period of development. The area which it will tap is a large one, and I am in favour of proceeding with the construction of that line as other railway interests permit at the earliest date possible.

I should also like to say one word on rates. Rates are the foundation of railway finance, and are of course a matter of the greatest importance to producers and importers in the Colony. I have reason to believe from the trend of opinion

in London that a decision will be given in favour of the construction of the proposed Tabora-Mwanza line. If that decision is given, a rate agreement with Tanganyika Territory will be necessary. I trust that this agreement will be made on lines which take into account the financial system of our own railway and which provide, as I have always thought it necessary to provide, for the demarcation of railway limits. If this cannot be done in the actual construction of railways, a certainty should be done so far as possible by the fixing of rates. That will be one of the most important questions bearing on rates on the Kenya and Uganda Railway that we shall have to deal with in the future.

Great importance from the same standpoint also attaches to the development of Lake Victoria. At the end of next year all the main traffic from Uganda will be carried by rail on the main line from the Nile via Tororo to Kilindini, and a very large part of the fleet on Lake Victoria will in consequence become idle. There are very great possibilities of development on Lake Victoria by means of feeder roads running to small and inexpensive lighter ports. This system has made possible an immense development of cotton growing in Uganda, the system of lighters drawn by logs, with feeder roads to the lighter ports. I am convinced that the same system will prove profitable and profitable in the northern half of Lake Victoria. It would empty our fleet, and it would be beneficial to all the territories on the Lake. My predecessor, Sir Robert Gwyther, who first visited the Lake in 1923, also attached very great importance to this form of development. Little has been done in the interval; but when I was down at Dar-es-Salaam the other day I discussed the matter very fully with Sir Donald Cameron, and I look confidently for prompt and practical co-operation on his part in the development of Lake traffic by this means. It is a matter of great importance in all territories on the Lake as well as to the Kenya and Uganda Railway.

I also investigated certain Customs difficulties which are undoubtedly impeding our export trade to the Lake, particularly to Tanganyika Territory. I hope early attention will be given to the Customs difficulties which exist, since these are unquestionably acting at the moment in restraint of trade.

Before leaving the subject of the Railway, I should like to make two other remarks. The first is to express my pleasure and admiration after a survey of the line throughout its length and of the Lakes with their services, for the efficiency with

which the transport services have been improved and developed during the last two or three years. The Railway has had to handle very serious arrivals, and at the end of last year there were great complaints of overcrowding on the piers, particularly from Uganda. I was therefore very glad to find that in the first three months of this year the Railway had already carried 30 per cent. more traffic than it carried in the first three months of last year. There was no sign of overcrowding or arrears anywhere, and I visited the piers everywhere. I consider that great credit is due to Mr. Pelling, the General Manager, and to Mr. J. Rhodes, who is now acting for him.

The other point is that the Railway will be prepared in the near future to consider a reduction of rates on certain articles of necessity, particularly from the point of view of building, transport and machinery. The reduction of rates which will be made, I hope, in the near future does, however, depend to a large extent on the acceptance of the recommendations of the Port Commission by the Secretary of State. Since Railway finance is affected by that decision, we have to await a decision on the organisation of the Port before we can go any further into the question of reduction of railway rates.

Before I sit down, I think Honourable Members would like to hear a word on the progress being made with the loan building programme. Progress, I regret to say, is slow, because building enterprises at present so much to seek in the equipment of the Colony. This is a matter which seems to me exceedingly serious. Nearly £10,000 has been asked for in the Supplementary Estimate presented to you to-day for increased rents and for temporary accommodation in offices. That seems to me both an inefficient and wasteful form of expenditure. £10,000 represents the interest and sinking fund on over £150,000, and I am absolutely convinced the Colony would be getting better value by putting up good buildings and saving rent charges and expenditure on patching and extending practically valueless old buildings. I regard progress with the building programme as absolutely imperative not only in the interest of efficiency, but in the interest of economy in the Colony. The position is this. We are awaiting tenders for the new Railway Offices in Nairobi which are due by the end of this month. I am told a certain number of tenders have been received from South Africa. When these tenders are here and have been examined, we shall have more information on the enterprise available for other buildings in Nairobi and elsewhere. Next month should therefore enable us to form a clearer view of the building prospect in the Colony.

I should like, before passing from that subject, to express my gratitude to the Works Committee which I appointed to deal with these building problems. Lord Delamere is now absent, and Lord Francis Scott has taken his place. Under the chairmanship of the Postmaster-General, and with the assistance of the Director of Public Works and the Acting General Manager of the Railway, the Works Committee has done most admirable service in studying the building problem. I believe the Colony in due course will derive great benefit from their exertions.

I am sure that all Council is glad to realise that good rates have fallen in practically all parts of the Colony. It is also exceedingly to be regretted, however, we have had to present a second Supplementary Estimate to Council since the beginning of the year, because it is a point of fact more than exceeding expenditure, and that we have reason to look forward to a good surplus at the end of the year. I hope, indeed, that the position of the Colony will prove to be even sounder and more satisfactory than before when Council meets in August next to consider the Estimates of Revenue and Expenditure for 1927.

MEMORANDUM

Under Government Notice No. 233 of 1920, the Governor-in-Council on July 17th, 1920, in exercise of the powers conferred by section 3(1) of the Town Planning Ordinance, 1919, appointed three persons to be the authority for the purposes of that Ordinance and ordered them to prepare a Town Planning Scheme in respect of any land situated within the Island of Mombasa. On April 14th, 1921, the personnel of the Authority was revised by Government Notice No. 129 and subsequent appointments of members from time to time have been made.

The various provisions contained in the Town Planning Ordinance Regulations, 1922, clauses 3-11 inclusive were duly referred to by this Authority and their scheme was submitted for the approval of the Governor-in-Council in 1923.

The area to which the scheme applies is the Island of Mombasa excluding the area edged black and hatched in black on the maps drawn on scale of 1 in 5,000. The area thus defined is roughly the Old Town of Mombasa. Of the remainder of the Island, the land reserved for Fort and Railway purposes has not been planned in detail.

The object of the Scheme is to provide for the orderly development of the Island in accordance with the modern principles of sanitation and town planning. Access by good roads will thus be provided to every plot, lines of public travel will be established conveniently near intervals, and provision will be made for the health and amenities of the town in a period of rapid growth which would otherwise lead to overcrowding and all the attendant evils upon it.

5. It has been necessary, in order to effect this object, to alter the shape of existing plots and to reduce their size proportionately so as to permit of frequent lines of public travel and to give to each plot a frontage on a road of access but care has been taken to provide for each plotholder a new plot of reasonable shape suitable for subdivision and as far as possible on the same site on which his original plot was situated.

6. The Plan could not be devised without entailing the demolition of a certain number of buildings not only for the accommodation of new streets, but also to permit of the widening of existing streets. Claims for compensation for loss so incurred will be paid when material damage is actually inflicted. But in assessing such compensation regard will be had to any enhancement in the value of the property caused by the scheme and if such enhancement equals in value the amount of the loss no compensation will be paid.

The Town Planning Ordinance 1919 provides for the operation of a pooling system and stipulates that new plots shall be equal in value to that of old plots. The Authority worked on the basis that a plot reduced in size by 20% will, by virtue of its access on to road frontage and its conversion from inaccessible agricultural land to building land, in fact not be reduced in value. It therefore proposes to give no compensation for this percentage of land subtracted from each plot. Should owners of land consider that the value of the new plot is not equal to that of the old they have the right of referring the matter of compensation to arbitration.

rendering without financial compensation 20% of the acreage of existing plots.

The Governor in Council observed that the Authority was satisfied that the value of the new plots though 20% less in size than the old ones would not be less in value. He further observed that reduction in size of plots without financial compensation was perfectly legal under Section 17(g) of the Town Planning Ordinance 1919 that in cases of dissatisfaction a right to arbitration existed and that in respect with the percentage similarly taken in town planning schemes in other parts of the world the Authority's proposals appeared eminently reasonable. He therefore did not uphold the objection.

Detailed objections.

It was stated that objection 6 has been withdrawn and the other objections were met by the proposals to meet other objections were met with the exception of objection 13, as to which instructions were given that every effort must be made to find an alternative site to that taken adjoining the factory.

A copy of the Order of the Governor in Council issued on 1st 1926, is attached. It was published in the Mombasa on May 22nd and has been circulated as required to all owners or reputed owners of land included in the Scheme. In view, however, of the fact that objections to the Scheme have been made and subsequently withdrawn, it becomes necessary under Section 4 of the Town Planning Ordinance 1919 to lay the Scheme before Legislative Council. The Scheme as approved by the Governor in Council - Paper II - is now laid on the table with copies of the map. The

provides that it shall come into operation at the conclusion of this Session unless a motion of rejection in whole or in part be moved in Legislative Council and