

1934

Kenya.

No. 23022.

SUBJECT

0
C0533/440

The Licensing Ordinance.

Previous

3023/A/33 (No. 35 etc.)

3262/33

Subsequent

38047/35.

C.C. 2
22 Dec 33

1. Governor Byrnes 697 _____

Summarises views on the representations of the British Dental Association regarding the liability of dentists to a licence fee whereas medical practitioners are exempted.

2. British Dental Association _____ 16 Jan 34

States have received strong protests from Kenya regarding discrimination against dental practitioners & enquires as to result of their representations which were not to it/has for answer

The Governor says (para 6. of 1) that registration as a medical practitioner does not authorise the medical practitioners to practise dentistry.

The B.D.A. say that "there are in fact many medical practitioners actually practising dentistry by virtue of their medical qualifications."

This is an obvious conflict, and S.O.S.'s attitude must, I suggest, depend largely upon which version is true.

? Ask: 2; continue as suggested in para 7 of the dep. ; note their statement that med. practitioners do, in fact, practise dentistry, and say that Govt. is being asked to report how far this is the case

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? Ack: 2; continue as suggested in para 7 of the dep. ; note their statement that med. practitioners do, in fact, practice dentistry, and say that Govt. is being asked to report how far this is the case

And send copy of 2, and above reply, to
Gov. in acknowledgment of 1, saying that in
view of the definite statement in Sept
we welcome further info as to the extent
to which med. practitioners practise
dentistry in the Colony

J. H. Keeton
17/1

D^r Stanton

What bothers me is the queer situation in Kenya
where a medical man is debarred from practising
dentistry by § 18 of the Ordinance. This is a serious
matter because what is dentistry? If a patient comes
to a medical man for overhaul or treatment and the
medical man finds the trouble is due to a septic tooth
which he can pull is that dentistry or a surgical
operation? Or does that amount to 'practising' dentistry?

In a ^{Colony} place like Kenya there are medical men all
over the place but the dentist's world of course lies in the
centres like Nairobi, Mombasa & Eldoret, and a doctor
in an outlying place would naturally have a few dental
instruments and do what he could for patients who could
not visit a dentist.

The law is the same in other places - e.g. Nigeria -
but Kenya is the only one where any conflict is likely to
arise.

I think we can reply as Mr Keeton proposes, ^{and}
(the real answer is that Kenya chooses to tax dentists and
they can address themselves to the Kenya Govt. via the local
association, but that would not do) What do you think?

J. C. W. Keeton
17/1

Mr. Keeton

I have looked at sec 18 of
the Ordinance. I think myself that
a registered medical practitioner
is not debarred from
practising what is called
dentistry in Kenya.

'Dentistry' was defined in
the UK Dentists Act, 1921 and
it was perhaps necessary to
make it clear that any
registered medical practitioner
might practise it. 'Dentistry'
is not defined in the Kenya
Ordinance.

I should simply send K.P. 2
to Kenya for comment and
tell the British Dental Assoc.
that we are doing so and give
them the substance of para. 7 of
K.P. 1.

A. Stanton
20.1.34

Yes: that is all that is necessary. (I sent an interim reply)

J. C. W. Keeton

22/1

closed

I understand from a
Kenya M.D. (Dr. J. F. Anderson)
that what the dentists complain
of is the practice of dentistry
by Indian doctors.

A. J. Stanton
25/1/34

3 To Br. Dental Assocn (London). — 19 Jan 34

4 To Br. Dental Assocn (London) 27/1/34

5 To Kenya, 67 (1/1/34) cons 30
1 unrecd

20/5
1934

6 British Dental Assocn — 22 Jan 34

Re: No 5.

? but by

W. H. H. H. H.

30.1.34

S. J. Whitehouse

31.1.34 at: M.C.

Parliamentary Question by Capt. Elliott - No 1 on P.P. file.

4 Govt Notice No 802 of 1933.

W. H. H. H. H.

British Dental Association, came
to see me about the position in
Kenya. This Association represents
only dentists on the British
Register and those entitled to
be on it. The Kenya members
number 12 of whom 4 practise
in Nairobi.

Their grievance is that they
have to pay a licensing fee
whereas doctors, who by virtue
of their medical registration
may compete with them in
dental practice, pay no fee. W. H. H. H. H.
said that one dentist, who held
medical qualifications also, had
been able to evade the fee by
changing his registration from
"dentist" to "medical practitioner".
He agreed that there was nothing
in the Kenya Ordinance to prevent

a "unregistered medical practitioners"
from practicing "dentistry," as
dissenting from the Governor's
view in Jan. 6 of 1931.

Mr. Senior said he attached
great importance to the protest
on the point of principle and
spoke of a deputation to the
Legl. etc. but I said I thought
we might await a further
reply from Kenya.

Mr. Senior was inclined
to magnify the importance of
the question I thought, but bodies
like the British Dental Society
must give an impression to
their members of great public
activity as shown by questions
in the Legl. deputations to
himself, and so on. ? But by

A. J. [unclear]
28.2.34

[unclear]
1/3 [unclear]

8 Govt. Notice Nos 115 & 116
(The Licensing Ordinance 1933)
Regulations of 27/1/34

The fee payable by persons whose
sole business is the purchase of
produce from natives for resale
within the Colony is reduced from
30/- to 20/-

Put by
T. Davies: 16/3
at once

Mr. C. E. Thomas, a dentist in
private practice at Mombasa
came to see me to-day at the
request of the British Dental
Association. The real grievance
of the dentists is that numbers
of "unregistered medical practitioners" (i.e.
Indian sub. assistant surgeons
registered in Kenya) are
practicing dentistry in competition
with registered dentists and yet

they pay no fee. This does appear to be unfair discrimination and we shall have the Governor's comments on it in reply to Jan 2 of 1955.

Mr Thomas was quite fair and reasonable in his protest but perhaps the fee itself was too high.

W. Stanton
2/3/54
B.v. 30 April if nothing in form Kenya

W. Stanton
22.

They both called on me. I liked Mr Thomas & thought him reasonable. I advised him to re-open the matter with the Governor on the grounds that

- There were no fees (only 20 patients @ 500)
- Expenses showed the unfairness of the fee
- Things were a bit better in Kenya
- The fee was very high

He said he would. I told him that if the Bar advised abolition of the fee the S. of S. certainly would not object, as I, for one, had no little sympathy with his point of view.

Partly

L. G. Hunt

18/3/54

alone

G. Govs. Deputy Moore 118 _____ 1st March 54

States suggestion that many medical practitioners practise dentistry is untrue & gives his views on methods of removing unfair discrimination of which the dentists complain.

Paragraph 3 comes back to the fact that dentistry is not defined in Chapter 19 of the Revised Edition.

I should imagine that the British Dental Association would agree to the former's interpretation of Sect 11 of the Ordinance, but no doubt Mr Roberts-Wray and Mr Stanton will have observations to make on this point.

Paragraph 4. The few medical practitioners who perform extractions for native or Indian patients who could not afford to or would not go to a dentist are, I suggest, the Indian Sub-assistant Surgeons. I referred to in Mr Stanton's minute of 2/2/54.

Paragraph 5. We might invite the B. Dental Assn to suggest a formula to give effect to the former's second alternative, but before doing so, it would seem that the interpretation of Section 11 of the Ordinance must be decided.

A. G. Brown
11/4/54

I am somewhat worried about the attitude of the Kenya Government. From para. 3 it appears that they took the view that a medical man who is

not registered as a dentist is, in fact, debarred from practising dentistry. If they take this view, then the sooner they change the better, because the position is in fact, in the law in this country, and in common sense, that dentistry is one branch of surgery, and a qualified surgeon has got the right to practise dentistry as well as to perform an amputation. As the Governor says, it would be absurd to suggest that any person who occasionally performs the extraction of a tooth is practising dentistry, but one can never be sure that that is not what the British Dental Association are suggesting.

In para. 4, the Governor says that he does not think there is much foundation for the suggestion that many medical practitioners practise dentistry. This was not the view taken by Mr. Thomas when he saw Dr. Stanton and myself, and I wish the Governor had given us something more to go upon than Dr. Paterson's opinion. Dr. Paterson is at times liable to say things without the fullest investigation, and he might not think that the Indian Sub-Assistant Surgeons were practising dentistry.

As a matter of hard fact, I don't think that the dentists of Kenya have got any real grievance. If the Government did propose to exempt them then, as I have already said, I should gladly advise the S. of S. to agree, but the real grievance, I think, is that they consider that their professional status and dignity is being lowered by the fact that they are called upon to pay fees when the medical practitioner is not.

The

The thing is further complicated because to get off dentists as a whole an amendment of the Ordinance is required, and that will have to be carried in the Kenya Legislative Council, and I cannot imagine a motion to exempt dentists being welcomed by Unofficials in that body.

The line at present taken by the Governor is to invite the dentists to suggest some method of rendering the medical practitioners liable to the fee, which is not really a serious contribution to the discussion.

I submit, very much for consideration, a draft to the Dental Association, and a draft despatch in reply to the Governor.

No 9. Jan 3. Subject to W. S. Duncan's view, I think the Kenya Government's interpretation of sec 11 of the Ordinance is wrong in law

A. Stanton
14. 4. 34

Having regard to the express provisions of section 11 of Cap. 119, I don't see much if a registered medical practitioner is legally entitled to practise dentistry in Kenya.

In these circumstances the best course would be to amend the law so as to give such practitioners the same statutory right to practise dentistry as they enjoy in their

Counter (see section 1(3)(a) of the
Dentists Act 1921 - 11+12 (So. 5 ch. 21).

I think that paragraph 4 of the
attached draft despatch should be
altered accordingly.

19/4/34 A. Duncan.

Seen
A. Stanton
19.4.34

Sir C. Bottenley

You should see this. If Kenya proceeds now
to bring in a Bill to show that any doctor may practise
dentistry there will be a wild howl from the dentists.
So I have talked about a "convenient opportunity" in the
sentence added to para 4.

Observe that the drafts may need

11/4/34

20.4

Mr. Flood.

Let me see what this is
a convenient opportunity for bringing
in a Bill to show that any doctor may practise
dentistry there will be a wild howl from the dentists.
So I have talked about a "convenient opportunity" in the
sentence added to para 4.

Wonder is it is better that it is
in so. letter - is. Say that should
the Kenya law may mean dental
practice by doctors is legal here and
and

Consideration by doctors.

Could not be visited in Kenya -
have it as that? You may wish
to consult J. Stanton again.

W.C.S.

20.4.34

D. Stanton

It might be well to give Bottenley
suggestion to put para 4 of the draft in a 3/0 letter
as I enclosed a draft one, if you agree

11/4/34
20.4

Yes. Even the dentists themselves
do not suggest that a medical
practitioner is not legally
entitled to practise dentistry
in Kenya

A. Stanton

21.4.34

D.

Sir C. Bottenley

Please see draft 4/0 letter to replace

para 4 of draft.

11/4/34
25.4

W.C.S.
25.4.34

- By air mail 10 To Hammersmoor - 0/0
- 11 " " " " " " - 0/0
- 12 To Kenya, 325 (q. Annod) 50 APR 1934

C3
mid & final
W. J. G. G. G.

13. Lt. Col. J.A. Cramp ————— 19 Jan 34
Requests that the question of discrimination against dental practitioners may be investigated.

DESTROYED UNDER STATUTE

14. Lt. Col. Cramp ————— 30 Jan 34

DESTROYED UNDER STATUTE

15. Minute & Kenya Note on Indian objections to the Licensing Ordinance.

No. 15.
Recommendation in view of the reply sent to India Office at 10.10 on 22.2/33 no further action seems called for at present.
? Put by
C. P. [Signature]
4/7/34

Sir G. [Signature]
I think the [unclear] already sent so all that is required. If they return to the charge there will be more to be said but till they do I would put by!

V.L.W. [unclear]
1/5.
6/7/77
3.5.36

The [unclear] [unclear] [unclear]
[unclear] [unclear] [unclear]
[unclear] [unclear] [unclear]
[unclear] [unclear] [unclear]

16. British Dental Assocn ————— 30 April 34
Holds No. 9 states dental practitioners in Kenya have prepared a further petition to the Gov.

Put by
C. P. [Signature]
4/8/34
at mtg



17. Governor Bygone 385 ————— 2nd Aug 34

Submits a report showing how the actual revenue yield from the various alternative proposals Ordinance compares with the estimated revenue. For info report of the Licensing Commr. & schedule showing estimated & actual revenue.
(Original on 2.5.09/34 copy attached)

18. Extract from E.A. Standard, 20 Aug 34
(High. side minute of 1.10.34 on 2.5.09/34)



19. A/Asst. Secretary [unclear] ————— 1st Dec 34

Trans. 12 issues of Report of the Comtee. appointed Shree & [unclear] to review the Licensing Ordinance 1933.

? Await the [unclear] [unclear] [unclear]
[unclear] [unclear] [unclear]
C. P. [Signature]
9.1.35

[Signature]
9 at

3/38 022/35

19¹⁰



THE SECRETARIAT
NAIROBI,
KENYA.

WHEN REPLYING
PLEASE QUOTE
NO. S.D. LEG. CO.
AND DATE

Co. 26/3/51

RECEIVED
21 DEC 1934
C. O. REGI

December 1934.

The Acting 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 of the under-mentioned publications:-

23023/14

Report of the Committee appointed to revise the Licensing Ordinance, 1933.

38010/25

Report of the Select Committee of Legislative Council appointed to consider and report upon the provisions of a Bill to amend and define in more precise terms the definition of the expression "Native".

3804/25

Report of the Select Committee of Legislative Council appointed to consider and report upon the provisions of a Bill to consolidate the law relating to the advancement and control of the Coffee Industry.

-000-

COLONY AND PROTECTORATE OF KENYA



REPORT OF THE COMMITTEE
APPOINTED TO REVISE THE
LICENSING ORDINANCE

1933

NAIROBI:
PRINTED BY THE GOVERNMENT PRINTER
1934

12

REPORT OF THE COMMITTEE
APPOINTED TO REVISE THE
LICENSING ORDINANCE

1933

13

Report of the Committee appointed to Revise the Licensing Ordinance, 1933

Your Excellency,

We have the honour to submit our Report on the following Terms of reference.
terms of reference which appeared under Government Notice
No. 626 published in the Official Gazette of the 25th September,
1934.

"To examine the provisions of the Licensing Ordinance, 1933, in the light of experience gained and to suggest such amendments as may be considered advisable, due regard being had to the necessity for maintaining or increasing the revenue from this source."

2. The personnel of the Committee was as follows — Personnel of Committee.

Mr. G. Walsh, C.B.E. (Treasurer), *Chairman*,

Mr. H. R. Montgomery (Chief Native Commissioner),

Mr. T. D. H. Bruce (Solicitor General),

Major P. W. Cavendish-Pentinck,

Mr. R. S. Cappbell (representing the Mombasa Chamber of Commerce),

Mr. Ernest B. Gill (Chartered Accountant),

Mr. J. B. Pandya (representing the Federation of Indian Chambers of Commerce),

Mr. T. A. Wood, C.M.G., M.B.E. (representing the Nairobi Chamber of Commerce),

Mr. J. K. Ramsden, Assistant Treasurer and Acting Procedure.
Officer in Charge, Revenue Office, was appointed Secretary.

3. Invitations to give verbal evidence or to submit written memoranda were extended to the public by notice in the Press and by direct communication in cases where it was considered that particular interest in this subject might be expected. The outcome, however, was disappointing, five letters and memoranda being received as a result of this invitation, with only one request (from the Nairobi Traders' Association) to give verbal evidence. In these circumstances and having

2

regard to the character of the personnel of the Committee, visits to other centres appeared unnecessary, and the Committee therefore pursued their deliberations in Nairobi, meetings being held between October 8th and November 2nd. With a view to expediting the detailed consideration of matters coming within our terms of reference, after a preliminary examination had been made, a sub-committee consisting of the Chairman, the Acting Chief Commissioner and the Solicitor General was appointed to prepare the first draft of a Bill incorporating the principles agreed upon by the Committee. This sub-committee reported on the 26th October, 1934.

Report of Licensing Commissioners.

4. In order to ascertain the extent to which the Licensing Ordinance of 1933 appeared to be defective from the point of view of administration, incidence and yield, the Committee first considered a Report submitted by the Licensing Commissioners appointed under section 15 (1) of the 1933 Ordinance to superintend the licensing of businesses and professions under the Ordinance, to give general and special directions to licensing officers as to the performance of their duties and to direct or authorize any questions of doubt or difficulty in connection with their duties.

Incidence of present Ordinance.

5. From a perusal of this document, the Committee were fully satisfied that the Ordinance in its present form lacks balance, is administratively extremely difficult of proper application and is unequal in its incidence, the principle of setting off one tax against another and the inclusion of a relatively high fee for any unspecified business in particular militating against the measure as a competent instrument for the licensing of trades and professions.

Yield.

6. So far as yield is concerned, the estimates submitted when the 1933 Ordinance was first under consideration varied from £112,600 to £40,000, the latter figure ultimately appearing in the Colonial Estimates for the current year. Actual collections to 30th September, 1934, are stated by the Central Revenue Authority to be £32,232, the total anticipated collection for the year being in the neighbourhood of £38,000. Details of actual collections to 30th September as follows:—

3

Section 7 (1)		No. of Licences	£	No. of Licences	£
A.	600 Wholesale			167	4,822
A.	300 Wholesale Branch	256	6,127	88	1,305
B.	300 Wholesale			52	719
C.	450 Retail	4,429	10,455	496	10,960
C.	30 Retail			3	600
D.	600 Banker	17	950	3	50
D.	600 Banker			5	428
E.	1,000 Shipping Company			5	75
F.	300 Commercial Trav.			3	167
G.	500 Turf Accountant			6	180
H.	600 Manufacturer			4	800
I.	4,000 Oil Company Insurance			—	—
J.	200 Life			—	—
J.	200 Fire			32	520
J.	100 Marine	94	1,100	6	90
J.	200 Accidental			25	245
J.	300 General			16	409
K.	4,000 Electric Light Co.			1	200
K.	500 Electric Light Co.	4	275	3	75
L.	15 Boarding House			21	149
M.	300 Assayer			1	15
N.	600 Exchange Banker			65	30
O.	300 Manufacturer's Agt.			321	1,378
P.	100 Any other business			194	2,131
Q.	300 Professional				
				5,442	£21,765
				513	257
Hawkers Transfers and Duplicates				42	10
				91	197
				648	£464
TOTAL NUMBER OF LICENCES				6,088	
TOTAL REVENUE				£32,232	

Government indicated to the Committee that it would wish to secure under the amended Ordinance a yield approximating to £50,000 in a full year.

7. From experience gained in the operation of the 1933 Ordinance it has become increasingly evident that the trading structure of Kenya differs so materially from that of Tanganyika Territory that complete uniformity in the matter of licensing trades and professions is impracticable. The Committee have therefore kept in view the necessity for prevention of hardships due to differences in the legislation of the territories, but have been compelled to frame their recommendations with particular reference to the requirements of Kenya.

Differences in trading conditions in East African territories.

8. Having arrived at the conclusion that the structure of the existing Ordinance required drastic alteration in order to remove the many defects which were brought to light and to reduce to a minimum the necessity for invoking powers of general reduction or remission of licence fees, the Committee then examined measures of a similar nature in operation in the Union of South Africa and more particularly in Mauritius. In both these laws the "exclusive" system is employed, only those trades and professions specified in the schedules being subject to a licence fee. It was agreed that the adoption of a similar course in Kenya would eliminate many of the difficulties and inequalities which have arisen in consequence of inclusion in the schedule of a fee of Sh. 100 in respect of "any other business" when retail traders holding small stocks are required to pay only Sh. 30. It was further agreed that the following should be incorporated in the new draft Bill:—

- (a) Provision for the issue of certain comprehensive licences rather than application of the principle of "set-off";
- (b) Increased powers of inspection and supervision;
- (c) The schedule of licence fees chargeable under the Ordinance to be framed with due regard to fees chargeable under other Ordinances but not to supersede or interfere with the fees leviable under other Ordinances;
- (d) The schedule of licence fees based on stocks to be carefully graduated and to apply to stocks held during the currency of the licence;
- (e) Authority for payment of half-yearly licences if the annual fee is Sh. 300 or more;
- (f) Provision for transfer of licences to other premises or persons.

9. Before examining in detail the provisions of the draft Bill appearing in an appendix to the Report, in which we have attempted to apply the principles enumerated above and which we confidently anticipate will prove an equitable and efficient measure for the taxation of trades and professions in the Colony, allusion is necessary to one important suggestion submitted for our consideration, i.e. provision for importers' licences.

10. The following is an extract from the memorandum of the Nairobi Traders' Association concerning this suggestion:—

"All traders who import goods shall be required to provide themselves with an importer's licence. This importer's licence to be issued on payment of a fee of not less than £10 per annum, which would be increased on a sliding scale according to the value of the goods imported annually. In this connection we estimate that 1,500 traders would take out importers' licences, and the estimated revenue would be as follows:—

Importers of Goods Value up to—		£
£1,000	685 at £10	6,850
£3,000	430 " £15	6,450
£5,000	200 " £20	4,000
£10,000	100 " £25	2,500
£20,000	50 " £30	1,500
£30,000	15 " £35	525
£40,000	10 " £40	400
Maximum	10 " £50	500
		£ 22,725

All goods imported into the Colony by persons not in possession of an importer's licence shall be subject to a special levy or surtax of 20 per cent on the value of the goods, in addition to any customs duty, etc., payable.

The value of the goods arriving annually in Kenya and Uganda by Parcels Post from Overseas are as quoted from the Trade Reports:—

1931	1932	1933
£315,309	£27,841	£260,935

It is, however, not possible to say what proportion of this amount is for goods privately imported, but the Association consider that a very large amount is for goods so imported, but it may be possible at a later date to supply you with some figures on this subject. It is not possible to supply you with figures for the value of goods imported privately by steamer.

In addition to the goods coming in by steamer and parcels post, many small packets come by letter post and which no customs duty, we believe, is levied. This revenue is lost.

Therefore if a special levy is imposed, a large volume of trade now enjoyed by non-revenue producing traders overseas would be diverted into local channels. We earnestly believe that such action would result in a largely increased turnover to local traders.

This would enable them to offer their goods at even keener prices than at present, and would inevitably lead to increased local employment with consequent benefit to local revenue in the shape of taxes paid by the wage earners.

We are definitely of the opinion that the variety of the goods stocked, the prices charged for imported goods in comparison with home prices, and the facilities and service offered by local traders are such that private importation is unnecessary.

We do not consider that any additional cost would be incurred in the collection of the suggested levy as it would cause very little extra work to the Customs Department.

11. It has been ascertained that in the Union of South Africa this licence is in force only in the Cape Province; that importations on private account are not subject to licence and that in practice this form of taxation has been found extremely difficult of administration.

12. Applying the suggestions to the trade of Kenya, it appeared to the Committee that the resultant burden which would be thrown on the important entrepot trade of the Colony and the harm that would be done thereby would far outweigh any other advantage which this form of taxation might have. So far as private importations are concerned, the Committee formed the opinion that of the total value of importations through the parcels post a very large proportion is consigned to traders, that the imposition of a surcharge on gifts (wedding and birthday presents and the like) could not be justified and that a Traders' Licensing Ordinance is not the best medium through which to discourage the importation of trade goods by private individuals. On these grounds the Committee were unable to support the proposal.

13. In the following paragraphs differences between the existing Ordinance and the proposed draft Bill are indicated and the reasons for suggested amendments explained.

Procedure followed in the Union of South Africa.

Importers' licence inappropriate to Kenya.

Suggested amendments.

14. Clause 2 covering definitions is an elaboration of section 2 of the 1933 Ordinance. Allusion to the alterations will be made in the explanation of succeeding clauses, but attention at this stage is invited to the definitions of businesses and professions which limit the application of the Ordinance to businesses and professions included in the various schedules, thus applying the principle of exclusion specified in paragraph 8 above and eliminating many of the difficulties now being experienced.

15. Clause 3 (1) and 3 (2) seek to re-enact the provisions of section 3 of the 1933 Ordinance so far as concerns prohibition to carry on a business and profession chargeable with a licence fee, unless a proper licence has been taken out, but eliminates the principle of the set-off as applied in section 3 (2) of the existing Ordinance.

16. Clause 3 (3) is in accordance with provisions now in force.

17. Clause 3 (4) is designed to exclude from liability to fee the employee who may be carrying on a business or the employee who may be practising a profession—excepting an advocate.

18. Clause 4 re-enacts the provision of section 4 (3) and 4 (6) of the Ordinance.

19. Clause 5 (2) contains a new provision empowering the Governor in Council to impose licence fees on businesses or professions not covered by the proposed schedules.

It is not anticipated that exercise of this power will be necessary in ordinary circumstances as the schedules have been prepared with some care and are framed to cover all present trading and professional activities which should be subjected to tax under this Bill, but at the same time provision of this measure of elasticity is considered desirable.

20. Clause 6 (1) as in the present Ordinance provides that licences shall be taken out on the 2nd January in each year and shall expire on the 31st December next following. An additional provision has been inserted authorizing the issue of half-yearly licences where the annual fee for such licence is not less than Sh. 300. The necessity for maintaining the cost of collection at a minimum figure prevents us from recommending half-yearly licences in respect of which a fee lower than Sh. 300 be charged.

Prohibition on carrying on business without a licence.

Power to impose licence fees.

Yearly or half-yearly licences.

Sub-clause (1) (b) limits the period of validity of a commercial traveller's licence to three months, it being considered that in the absence of a central authority or in order to avoid complicated inter-territorial adjustments, this method of charge, although by no means perfect from the point of view of treatment of the three territories as a single economic unit, will meet the case in existing circumstances.

Clause 6 (2) re-enacts the provisions of section 7 (4) of the existing Ordinance.

Surrender of licences.

21. Clause 7 (1) provides that a licence may be surrendered only in cases where the licence-holder may have ceased to practise a profession or to carry on business but clause 7 (2) improves the position of the licensee in respect of surrender values under section 11 of the Ordinance, the amounts repayable on surrender being increased from one-third to one-half and from one-sixth to one-quarter under sub-clauses (a) and (b) respectively.

Transfer of licences.

22. Clause 8 (1) re-enacts the provisions of section 12 of the Ordinance, in regard to the transfer of licences to different premises, clause 8 (2) affording additional authority to transfer a business licence as between persons.

Duplicate licences.

23. Clause 9 re-enacts section 13 of the Ordinance.

Measures of control.

24. Clause 10 considerably strengthens the position of the licensing authorities so far as general control is concerned, a matter which the Committee consider to be of the greatest importance, as in their opinion the equity of an Ordinance of this nature depends not only on the measure of taxation imposed but also upon the provision of machinery adequate to ensure that evasion is capable of complete elimination.

Clause 10 is framed with this object in view. It provides for the exhibition and production of licences, power to enter premises, the keeping of books and the determination of the value of stocks kept by petty traders, all being considered reasonable safeguards against evasion of payment of the proper licence fees.

Exhibition of trade names.

25. Clause 1 provides for the exhibition of the name under which a licensee carries on business.

Hawkers and pedlars.

26. Clause 12 and 13 provide for the licensing of hawkers and also of pedlars, these terms being defined under clause 2. In the existing Ordinance "hawker" is not specifically defined,

but is interpreted to extend to persons offering, or exposing for sale, barter or exchange, goods elsewhere than at a fixed place of business, no distinction being made between the "pedlar" who plies his trade on foot or with a vehicle propelled by himself and the "hawker" who has a more ambitious equipment and itinerary. The latter class of trader is increasing in numbers and it is felt that the South African practice of differentiating between the licence fees chargeable should be followed.

27. Clause 14 follows the provisions of section 5 (3) (4) (5), and (6) of the existing Ordinance except in so far as sub-clause (4) covering exemptions is concerned. In this sub-clause the exemption extending to persons already licensed under Municipal by-laws is omitted as being at variance with recognized practice in the matter of Government taxation, and at the instance of missionary Bodies, colporteurs have been included in the exemption.

Exemptions from hawkers and pedlars licence.

28. Clause 15 repeats the provisions of section 9 of the present Ordinance.

Licensing authority.

29. Clause 16 is in effect a repetition of section 10 of the 1933 Ordinance.

Forms of licences and applications.

30. Clause 17.—The fundamental alteration in the structure of the measure which is now "exclusive" and not "inclusive" as in the case in the 1933 Ordinance, allows of considerable modifications of the specific exemptions appearing under section 6 of the present Ordinance.

Exemptions.

Clause 17 (1) (a) clarifies the position as set out in section 6 (1) (a) of the 1933 Ordinance.

Clause 17 (1) (b) restricts exemption of persons licensed under the liquor laws to persons operating solely in the liquor trade, a point upon which the present Ordinance is by no means clear.

Clause 17 (1) (c) and (d) repeat the provisions of section 6 of the 1933 Ordinance.

Clause 17 (1) (e) has been inserted at the instance of the Chief Native Commissioner who is anxious that no steps should be taken which might discourage the increased use of bricks, meat and bread by the native population.

Clause 17 (2) varies a somewhat similar provision in section 6 (2) of the present Ordinance by omitting the grant of power to exempt or reduce licences chargeable under the

Licensing Ordinance by reason of the businesses, professions or persons being liable to another fee. The Schedules in the Bill now submitted have been framed with due regard to liability under other Ordinances and after full consideration of all relevant factors. In these circumstances it is felt that all reference to "set-off" should be omitted and it is confidently expected that except in abnormal circumstances the necessity for variations in the fees chargeable will be considerably less frequent than has been the case hitherto.

Appointment
of licensing
commissioners

31. Clause 18 is a repetition of section 15 of the present Ordinance. In this connection Major Cavendish-Bentinck and Mr. T. A. Wood express the view that the appointment of licensing commissioners should not be completely restricted to persons employed in the public service, but that provision should be made for the appointment of one non-official member. Other members, however, hold the view that as the functions of the licensing commissioners are administrative in character and relate almost entirely to a proper interpretation of the terms of the Ordinance, their duties differing in no important particular from the functions of any individual public officer appointed to administer an Ordinance, such official representation is unnecessary. The member representing the Indian Federation of Chambers of Commerce states that if a European non-official member is appointed as a licensing commissioner, the Indian section of the trading community would be compelled to press for the appointment of a Commissioner to represent Indian trading interests.

Principals
and agents.

32. Clause 19 safeguards the position in regard to the obligations as between principals and agents.

Rule-making
powers.

33. Clause 20 accords power to make Rules under the Ordinance.

34. Clause 21 repeats the penalties provided in clause 16 of the 1933 Ordinance, whilst clause 22 repeals the 1933 Ordinance.

35. Schedule 1 of the Bill relates to the licensing of professions (the licence being personal to the holder) and specified with more exactitude the professions in respect of which Sh. 300 licences are required.

Medical
practitioners
and dentists.

36. Particular reference to the position of medical practitioners and dentists is necessary. In the 1933 Ordinance dentists are included in the definition of professions subject to

licence, and it is understood that in the 1933 Bill medical practitioners were originally included, but that during the Committee stage medical practitioners were placed outside the scope of the measure by reason of the fact that although certain medical practitioners should reasonably be called upon to pay a licence fee in common with other professional men, the number was so small as compared with the total number, including consultants, who either gave their services or were not in regular practice, that exemptions appeared the most convenient way out of the difficulty. In consequence of this differentiation between medical practitioners and dentists, vigorous protest was made by the dental surgeons who stated that such a discrimination is unprecedented and unknown in any other part of the British Empire. Reference to such licensing measures of a similar nature applied in other parts of the Empire as are available to us would appear to support this contention as in the laws of Mauritius and the Union of South Africa medical practitioners and dental surgeons are alike chargeable with a licence fee. We recommend, therefore, that medical practitioners and dental surgeons should both be included in this Schedule, remission or exemption being allowed on application where the nature of the practice warrants this course of action.

37. *Schedule B.*—The licences enumerated in Schedule B relate to semi-professional businesses and are not personal in character. The businesses specified are in some cases ancillary to other activities, the individual licence fees are smaller than those chargeable under Schedule A and provision is made for an inclusive licence to cover all the businesses described in the Schedule.

38. *Schedule C.* is framed to cover the main business activities of the Colony, provision being inserted for a comprehensive licence to cover all the businesses mentioned in the Schedule.

39. Item 1 is similar in intention to the proviso to section 7 (1) (c) of the existing Ordinance save that (a) the licence fee is related to the value of goods on hand at any one time during the currency of the licence instead of being related to the stocks on hand in the previous year and (b) the value of stocks is reduced from £150 to £75. So far as (a) is concerned, the reason for the suggested alteration is obvious as assessment of the stocks held by petty traders at any one time in the year preceding the currency of the licence has been

Schedule B

Schedule C

Petty traders

found administratively impossible. As regards (b), the Committee (subject to the dissenting opinion of the member representing the Indian Federation of Chambers of Commerce) consider that £75 is a reasonable maximum figure to cover stocks of petty traders who are called upon to pay a licence fee, as low as Sh. 30 per annum in townships and trading centres and Sh. 10 per annum elsewhere.

General
traders.

40. Item 2 covers the business of the general trader other than the petty trader and the attempt to discriminate between wholesale and retail trading and the importer and the non-importer has been abandoned as impracticable. In contradistinction to the provisions of the existing Ordinance under which general retail traders are required to pay a licence fee of either Sh. 30 or Sh. 450 per annum, a sliding scale based on maximum stocks is suggested as affording a more equitable method of charge.

Manufacturers.

41. A sliding scale of fees on somewhat similar lines is suggested in regard to manufacturers in supersession of the existing fixed fee of Sh. 600 for manufacturers having a gross turnover in respect of their manufactures exceeding £5,000 per annum.

Commissioner
of Manufactures
or agents.

42. Item 4.—An increased fee from Sh. 300 to Sh. 400 is suggested for carrying on the business of a commissioner and of manufacturers' agent, a similar increase being proposed in regard to commercial travellers. In many cases, however, the business of a manufacturers' agent is carried on as one of the activities of a merchant house, in which event the comprehensive licence provided for in item 7 would ordinarily be taken out.

Exchange
bankers.

43. Item 5.—It is suggested that the licence required to carry on the business of an exchange banker should be increased from Sh. 600 to Sh. 1,000 per annum, it having been represented to us that as bankers are required to pay Sh. 4,000 for the principle place of business and Sh. 500 for each branch, and as the dealing in exchange is at present the most lucrative branch of banking the existing disparity is unwarranted. In certain cases the comprehensive licence of Sh. 1,200 would probably cover this activity.

Cleaning and
forwarding
agents.

44. Item 6.—It is felt by the Committee that the business of clearing and forwarding agents is one which should properly be included in the Ordinance relating to the licensing of trades and professions. If this recommendation is accepted

it is suggested that the fee of Sh. 20 per annum at present payable under the Customs Management Regulations should be abandoned and the Regulations amended accordingly.

45. Schedule D is framed to cover specialized businesses and businesses of a particular nature in respect of which it is considered that fixed licence fees should be charged. The following items call for special mention. Schedule D.

46. Item 3.—Under section 7 (d) (k) of the existing Ordinance a fee of Sh. 4,000 for the principal or only place of business is charged, Sh. 500 being chargeable for each branch. In the opinion of the Committee this method of assessment is inappropriate and it is accordingly recommended that a fixed fee of Sh. 2,500 for each area of distribution should be imposed. Power and
electric light
distributors.

47. Item 5.—A fee of Sh. 1,000 is now charged under Harbour Regulations, No. 108 (a) (vide item No. 51 in the Harbours Tariff Book) for the business of a stevedore. The Committee consider that a licence of this nature should properly be issued under the Trades Licensing Ordinance and therefore recommend that the fee hitherto chargeable under the Harbour Regulations should be cancelled and replaced by this item. Lightering and
stevedoring.

48. Item 6 is a repetition of section 7 (f) of the 1934 Ordinance save that the fee for marine insurance is placed on the same footing as other forms of insurance. Insurance.

49. Items 8-16 and 19-26 are inserted to provide appropriate fees for the various classes of business enumerated under these items, the suggestion for the licensing of newspaper publishers being derived from a similar measure in South Africa. Other
insurance.

50. The present scale of licence fees for temporary hotels and boarding houses is Sh. 15 for each person for whom sleeping accommodation is provided" a basis of charge which is almost impossible of proper application. After detailed consideration the Committee submit the sliding scale of fees enumerated in item 17 as providing an equitable basis of assessment. Adoption of this suggestion would eliminate any discrimination between temperance and other hotels so far as sleeping accommodation is concerned and would exempt from tax small establishments where a single room is made Hotels,
boarding and
lodging houses.

available for letting. Differentiation as between various districts in the Colony follows the recommendation in this regard by the Liquor Licensing Committee.

Restaurants.

51. Item 18.—The wide difference between restaurants of European standard and other restaurants and eating houses has necessitated a similar variation in fee as between the two types. Places outside the boundaries of townships and trading centres where food is sold for consumption on the premises will be exempt from tax under this item.

Branches.

52. It should be understood that except where specifically provided, shops and premises which are branches of a principal establishment will be treated as separate entities and licensed accordingly as it appears to the Committee that the mere existence of a principal place of business in the Colony should not affect the licence fee chargeable in respect of branches if equality of treatment of all trading interests is to be assured.

Application of provisions of Ordinance.

53. The Committee have used every endeavour to frame the Bill now submitted on reasonable and equitable lines and have some reason for assuming that no particular difficulty in its proper administration will be encountered. We feel, however, that the result of a successful achievement of these aims will be largely stultified unless adequate steps are taken to ensure that a full collection of the fees chargeable under the Ordinance is made, as any evasion will adversely affect not only the revenue but also the equitable incidence of the measure.

With a view to securing a maximum collection we therefore strongly recommend (a) the quarterly publication of details of licences issued in respect of which a fee of over Sh. 30 is charged, and (b) that specialized officers should be detailed to supervise collections in at least the larger centres.

Yield under the amending Bill.

54. So far as the yield which may be expected from the measure as now amended is concerned, alterations in the Schedules are of so comprehensive a nature that a close computation of the results is impossible at this stage. Our main efforts have been in the direction of framing a workable measure with reasonable and equitable schedules of fees, due regard being had to the revenue position, and although no guarantee can be given, we are confident that a proper and full application of the measure now submitted will result in an improved revenue yield from this source without imposing any undue hardship on individuals.

55. In conclusion we wish to place on record our appreciation of the valuable work performed by Mr. J. K. Ramsden, the Secretary to the Committee. Acknowledgment.

G. WALSH, Chairman.

H. R. MONTGOMERY.

T. D. H. BRUCE.

R. S. CAMPBELL.

ERNEST B. GILL.

T. A. WOOD.

J. B. PANDYA.

(subject to the dissenting opinion minute noted hereunder)

Secretary—J. K. RAMSDEN.

Note.—Owing to illness the signature of Major F. W. Cavendish-Bentack has not been obtained.

ADDENDUM.

We, the undersigned unofficial Members of the Committee, particularly desire to record our appreciation of the courtesy and patience exercised by the Chairman throughout the deliberations which, as can be imagined, were on occasion extremely difficult. We further wish to record the fact that the work of the Committee was greatly expedited by the preparation of a draft Ordinance by the official Members acting as a sub-Committee, this draft Ordinance embodying the principles approved by the Committee as a whole, in their earlier discussions.

The comprehensive nature of the draft Bill enabled the Committee more expeditiously to agree upon the fixation of the various licensing fees as shown in Schedules A, B, C and D of the draft.

R. S. CAMPBELL.

ERNEST B. GILL.

T. A. WOOD.

J. B. PANDYA.

Nairobi,

19th November, 1934.

DISSENTING MINUTE BY MR. J. B. PANDYA.

I regret I am unable to agree with some of the recommendations of the Committee. In principle I should like to observe that the proposed Bill does definitely increase the taxation on the commercial community and I am quite sure the schedule as drafted would bring in a much larger amount of revenue.

The proposed schedule shows that while licence fees to be paid by professions and others, such as banks, shipping companies, oil companies, etc. are retained at the same figure as before, and while fees in respect of hotels and boarding houses have even been reduced, the trade licences have been actually increased. As an instance, the principle adopted in this Bill that one licence does not cover the other except when a comprehensive licence costing a large sum is taken, would mean a definitely increased taxation on the commercial community. In the old Bill the maximum trade licence fee amounted to Sh. 600 per annum, whereas according to the proposed Bill a comprehensive licence would cost Sh. 1,200, moreover Schedule C for trading licences is so arranged in the present Bill that in many instances those paying a licence fee of Sh. 30 or Sh. 450 will have to pay Sh. 75 or Sh. 300.

With regard to the capacity of the traders to bear this extra burden I should like to quote the figures for trade imports for Kenya. They are as under:

	1928	1931	1933
	£	£	£
Total imports for Kenya	6,759,673	3,783,300	3,382,808
Retained imports in Kenya			
after deducting re-exports	4,950,377	2,677,750	1,988,167

These figures show that compared to 1928 the total trade imports of Kenya have gone down by about 50 per cent, but if the actual retained trade imports were to be considered, it would be found that they have gone down by nearly 62 per cent. It means that actual turnover of traders in Kenya affected by these proposals has been reduced by 62 per cent or the business to-day is only 38 per cent of what it was in 1928.

Based on the above figures and in view of the fact that turnover in trade has gone down to such an enormous extent, I would like to place on record my considered opinion that the proposed increase in licence fees would generally result into a definite hardship.

With regard to Schedule C 1 and 2, I propose that these items should be replaced by the following:—

1. A licence to conduct the business of a petty dealer.

For each place of business where the value of the goods on hand does not at any one time during the period of the validity of the licence exceed £100—

- (a) in a municipality, township or trading centre ... 30
- (b) elsewhere ... 10

2. Fee licence to conduct the business of a trader.

For each place of business—

- (a) where the value of goods on hand does not at any one time during the period of the validity of the licence exceed £300 ... 50
- (b) where the value of goods on hand does not at any one time during the period of the validity of the licence exceed £500 ... 75
- (c) where the value of goods on hand does not at any one time during the period of the validity of the licence exceed £1,000 ... 300
- (d) where the value of goods on hand does not at any one time during the period of the validity of the licence exceed £2,500 ... 400
- (e) where the value of goods on hand may at any one time during the period of the validity of the licence exceed £2,500 ... 600

This schedule would be fair and just, and in a permanent measure of this description it is necessary that fairness in taxation between various classes of businesses should be observed.

In Schedule C 5 the Committee has suggested a fee of Sh. 1,000 for exchange bankers. This appears to be rather excessive. Exchange banking outside the regular banking is small and is mostly limited to dealings with Bombay with a small margin of profit. It is more a facility to Indian artisans and others, because it obviates many of their difficulties of remitting money to their families in India and getting it paid without a lot of formalities which a full-fledged banking concern would no doubt insist upon. For these reasons I suggest that Sh. 600 would be a fair fee for this class of business.

My views on the proposal of Major Cavendish-Bentinck and others regarding the appointment of an unofficial as one of the licensing commissioners are conveyed in paragraph 31 of the report.

J. B. PANDYA.

APPENDIX

A Bill to provide for the Licensing of Certain Professions, Businesses, Trades, Arts, Callings and Industries within the Colony and to Fix the Licence Fees Payable.

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

Short title.

1. This Ordinance may be cited as the Licensing Ordinance, 1934, and shall come into operation on the 1st day of January, 1935.

Definitions.

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

"accountant and/or auditor" means any person who practices as such;

"advocate" means a practising advocate who is resident in the Colony;

"architect" means any person registered as such under the provisions of the Architects and Quantity Surveyors Ordinance, 1933;

"banker" means any company, person or body of persons, British or foreign, whether incorporated or not, and whether registered in the Colony or not, engaged in the business of banking in the Colony who shall be declared by the Governor in Council by notice to be a banker for the purposes of this Ordinance;

"businesses" means any of the businesses, trades, arts, callings or industries set out in Schedule B, Schedule C and Schedule D to this Ordinance;

"commercial traveller" means any person who, not being ordinarily resident in the Colony, solicits orders for goods on behalf of other persons but does not include a person employed as a traveller by a firm or persons licensed under this Ordinance;

"commission agent and/or manufacturer's representative" means any person resident in the Colony who receives or orders from abroad goods on account of others, whether such goods are imported in his own name or not;

"dentist or dental surgeon" means any person practising as such and registered under the Medical Practitioners and Dentists Ordinance;

Cap. 119.

"exchange banker" means a person who carries on for profit the business of operating in foreign currency outside the Colony but shall not include a money-changer or any company, person or body of persons who may hold a licence as a banker;

"hawker" means any person who, whether as principal agent or employee, carries on the trade or business of offering or exposing for sale, barter or exchange elsewhere than at a fixed place any goods and for that purpose travels about from place to place with goods on any vehicle (other than a vehicle propelled by himself, or with a pack animal or carrier);

"hotel, boarding and/or lodging house" means any premises in which not less than two bed or sleeping rooms are set apart and furnished for letting;

"licensing authority" means the Treasurer or any person appointed by the Treasurer to be a licensing authority;

"medical practitioner" means any person practising as such and registered under the Medical Practitioners and Dentists Ordinance;

Cap. 119.

"native" means any native of Africa not of European or Asiatic origin and includes a Swahili and a Somali;

"oil company" means any person or body of persons, incorporated or unincorporated, carrying on, either as principal or agent, the business of importation and wholesale distribution of dangerous petroleum or petroleum as defined by the Indian Petroleum Act, 1909, as applied to the Colony;

"pedlar" means any person who, whether as principal agent or employee, carries on the trade or business of offering or exposing for sale, barter or exchange elsewhere than at a fixed place any goods and for that purpose travels with his goods from place to place either on foot or with a vehicle propelled by himself;

"profession" means any of the professions set out in Schedule A to this Ordinance;

"quantity surveyor" means any person registered as such under the provisions of the Architects and Quantity Surveyors Ordinance, 1933.

"restaurant" means any place where food is sold for consumption on the premises.

"shipping company" means any person or body of persons, incorporated or unincorporated carrying on, either as principal or agent, the business of carrying goods or passengers across mechanically propelled vessels, but the term does not include passenger agents or shipping companies engaged solely in coasting trade within the meaning of the Shipping Ordinance, 1930, or the agents of such companies.

Profession or
business to be
licensed

3: (1) No person shall for profit or for gain practise or carry on in the Colony, whether as principal or agent, any profession or business, as defined in section 2 of this Ordinance, unless he holds a licence for the time being in force issued under the provisions of this Ordinance authorizing him to do so.

(2) No person shall for profit or for gain practise or carry on in the Colony whether as principal or agent, any profession or business as defined in section 2 of this Ordinance in any place other than that specified in his licence.

(3) Nothing in this Ordinance contained shall be deemed to confer upon a person holding any licence under this Ordinance the right to practise any profession, or to carry on any business which he is not authorized by law to practise or to carry on.

Exceptions.

(4) Save as is provided in section 4 of this Ordinance a person shall not be deemed to be practising a profession or carrying on any of the businesses specified in Schedule B to this Ordinance if such person is not practising a profession or carrying on business on his own account and is a full-time employee of, and is in receipt of a salary from, a person or business duly licensed under this Ordinance.

Offence.

(5) If any person contravenes the provisions of this section, he shall be liable for a first offence to a fine not exceeding fifty pounds or in default of payment to imprisonment for any term not exceeding two months, and for a second or subsequent offence to a fine not exceeding two hundred and fifty pounds or in default of payment to imprisonment for a term not exceeding six months.

4. (1) Where two or more members of a firm practise a profession, each of the said members shall take out a separate licence in his own name. Separate licences.

(2) No person other than a person employed in the service of Government or of the Railways and Harbours Administration, or a person solely employed by a municipal council or board shall practise as an advocate, whether in receipt of a salary or not, unless he is duly licensed under this Ordinance. Advocates.

5. (1) Professional licences shall be of the kind described in Schedule A to the Ordinance and business licences shall be of the kinds described respectively in Schedule B, Schedule C and Schedule D to this Ordinance; and, subject to the provisions of sub-section (2) of section 6 and of sub-section (3) of section 13 of this Ordinance, the annual fee for each licence shall be that set opposite to the description of such licence in such Schedules. Kinds of licences.

(2) (a) The Governor in Council may, by order in the Gazette, authorize the exercise of any profession, business, trade, art, calling or industry not specifically mentioned in this Ordinance, upon payment of such licence fee, and upon such conditions, as to him may seem fit.

(b) When an Order has been made by the Governor under paragraph (a) of the sub-section the licensing authority shall issue a special licence for the exercise of such profession, business, trade, art, calling or industry on payment of the fee, and subject to the conditions prescribed in such Order.

6. (1) Licences under this Ordinance shall be taken out on the second day of January in each year and shall expire on the thirty-first day of December next following. Provided that— Period of validity of licences.

(a) in any case where the annual fee for a licence is not less than three hundred shillings, it shall be lawful for a licensing authority to issue in any year a licence which shall expire on the thirtieth day of June in the same year of issue and the amount of fee payable for such licence shall be half the amount of the annual fee;

(b) a licence to carry on the business of a commercial traveller may be taken out upon any day in each

year but shall expire within a period of three months from the date upon which such licence fell due to be taken out.

(2) Where a licence is due after the thirtieth day of June in any year, the fee for the licence shall be one-half of the annual fee specified in this Ordinance, and where a licence is due after the thirtieth day of September in any year, the fee for that licence shall be one-quarter of the fee so specified.

Surrender of licences.

7. (1) Any person to whom a professional licence or a business licence has been issued under the provisions of this Ordinance may, if he ceases to carry on the business, or ceases to practise the profession, in respect of which the licence has been issued, surrender such licence to a licensing authority.

(2) When a licence is surrendered under the provisions of sub-section (1) of this section, then—

- (a) if the licence has six months or more to run, one-half of the fee paid shall be returned to the licensee;
- (b) if the licence has less than six and more than three months to run, one-fourth of the fee paid shall be returned to the licensee.

Transfer of licences.

8. (1) A professional licence or a business licence may, by endorsement of a licensing authority and on payment of a fee of five shillings, be transferred to different premises:

(2) Upon good reasons being adduced therefor a business licence may, by endorsement of a licensing authority and on payment of a fee of five shillings, be transferred to another person.

Issue of duplicate licences.

9. A licensing authority, on being satisfied that a licence issued by him under this Ordinance has been lost or destroyed, and on payment to him of a fee of five shillings, shall issue a duplicate licence to the licensee.

Licences to be exhibited at place of business.

10. (1) Every business licence shall be exhibited in a prominent place in the premises to which it relates or if the business is not carried on in definite premises, such licence shall be kept at the place where the person carrying on the business usually resides.

(2) Every professional licence shall be kept on the premises where the person practising the profession usually practices.

(3) Every licence issued under this Ordinance shall be produced for inspection to any administrative or police officer, licensing authority on reasonable notice being given by him. Licences to be produced for inspection.

(4) Any administrative officer, police officer or licensing authority may enter any premises in respect of which a licence has been issued under this Ordinance, and may require to be furnished with such information as will enable him to determine whether or not the provisions of this Ordinance are being complied with. Power of entry.

(5) Any administrative officer, police officer or licensing authority may enter any premises in respect of which a licence has not been issued under this Ordinance in which he has good reason to suspect that there is carried on any profession, business or trade for which a licence is provided under this Ordinance, and may require to be furnished with any information he may deem to be necessary.

(6) Every person holding a licence under paragraph 2 of Schedule U of this Ordinance shall keep such books as will enable the Treasurer or his duly authorized representative to ascertain the nature of the trade carried on and the value of the goods on hand at any one time. Books to be kept.

(7) In the case of a petty dealer licensed under paragraph 1 of Schedule U to this Ordinance, the nature of the trade carried on and the value of the goods on hand at any one time may be determined by any administrative officer, European police officer or the Treasurer or his duly authorized representative.

Offences.

(8) Any person who—

- (a) contravenes the provisions of sub-section (1) or sub-section (2) of this section; or
- (b) fails to produce his licence when notice has been given to him to do so under sub-section (3) of this section; or
- (c) fails to furnish any information required from him under the provisions of sub-section (4) or sub-section (5) of this section; or
- (d) fails to keep the books required to be kept under the provisions of sub-section (6) of this section; or

year but shall expire within a period of three months from the date upon which such licence fell due to be taken out.

(2) Where a licence is due after the thirtieth day of June in any year, the fee for the licence shall be one-half of the annual fee specified in this Ordinance, and where a licence is due after the thirtieth day of September in any year, the fee for that licence shall be one-quarter of the fee so specified.

7. (1) Any person to whom a professional licence or a business licence has been issued under the provisions of this Ordinance may, if he ceases to carry on the business, or ceases to practise the profession, in respect of which the licence has been issued, surrender such licence to a licensing authority.

(2) When a licence is surrendered under the provisions of sub-section (1) of this section, then—

- (a) if the licence has six months or more to run, one-half of the fee paid shall be returned to the licensee;
- (b) if the licence has less than six and more than three months to run, one-fourth of the fee paid shall be returned to the licensee.

8. (1) A professional licence or a business licence may, by endorsement of a licensing authority and on payment of a fee of five shillings, be transferred to different premises;

(2) Upon good reasons being adduced therefor a business licence may, by endorsement of a licensing authority and on payment of a fee of five shillings, be transferred to another person.

9. A licensing authority, on being satisfied that a licence issued by him under this Ordinance has been lost or destroyed and on payment to him of a fee of five shillings, shall issue a duplicate licence to the licensee.

10. (1) Every business licence shall be exhibited in a prominent place in the premises to which it relates or if the business is not carried on in definite premises, such licence shall be kept at the place where the person carrying on the business usually resides.

(2) Every professional licence shall be kept on the premises where the person practising the profession usually practices.

(3) Every licence issued under this Ordinance shall be produced for inspection to any administrative or police officer, licensing authority on reasonable notice being given by him.

Licences to be produced for inspection.

(4) Any administrative officer, police officer or licensing authority may enter any premises in respect of which a licence has been issued under this Ordinance, and may require to be furnished with such information as will enable him to determine whether or not the provisions of this Ordinance are being complied with.

Power of entry.

(5) Any administrative officer, police officer or licensing authority may enter any premises in respect of which a licence has not been issued under this Ordinance in which he has good reason to suspect that there is carried on any profession, business or trade for which a licence is provided under this Ordinance, and may require to be furnished with any information he may deem to be necessary.

(6) Every person holding a licence under paragraph 2 of Schedule G of this Ordinance shall keep such books as will enable the Treasurer or his duly authorized representative to ascertain the nature of the trade carried on and the value of the goods on hand at any one time.

Books to be kept.

(7) In the case of a petty dealer licensed under paragraph 1 of Schedule G to this Ordinance, the nature of the trade carried on and the value of the goods on hand at any one time may be determined by any administrative officer, European police officer or the Treasurer or his duly authorized representative.

(8) Any person who—

Offences.

- (a) contravenes the provisions of sub-section (1) or sub-section (2) of this section; or
- (b) fails to produce his licence when notice has been given to him to do so under sub-section (3) of this section; or
- (c) fails to furnish any information required from him under the provisions of sub-section (4) or sub-section (5) of this section; or
- (d) fails to keep the books required to be kept under the provisions of sub-section (6) of this section; or

Surrender of licence.

Transfer of licence.

Issue of duplicate licence.

Licences to be exhibited at place of business.

(e) obstructs or hinders any administrative or police officer or licensing authority in the exercise of his duties under this section.

shall be guilty of an offence against this Ordinance.

11. Every licence holder, keeping a shop, office or other place of business or of practice under his licence shall exhibit a signboard or name-plate bearing the name under which he practises or carries on business as shown on his licence.

12. (1) No person shall hawk goods in the Colony unless he holds a hawker's licence, for the time being in force authorizing him to do so, in the form set out in Schedule F to this Ordinance.

(2) There shall be paid for a hawker's licence the fee of twenty-five shillings per month.

13. (1) No person shall peddle goods in the Colony unless he holds a pedlar's licence, for the time being in force authorizing him to do so, in the form set out in Schedule F to this Ordinance.

(2) There shall be paid for a pedlar's licence a fee of ten shillings per month.

14. (1) Subject to the provisions of sub-section (2) of this section, where any person employs servants to hawk goods or to peddle goods on his account each person shall be liable to take out a licence and to pay the fees therefor for each such servant.

(2) A hawker or a pedlar shall not transfer his licence to any person: Provided that a servant may travel with his master's licence and trade for his master's benefit: And provided further that a separate licence shall be taken out for each servant if more than one is employed, as provided in sub-section (1) of this section.

(3) Every person required by this section to be provided with a hawker's licence or with a pedlar's licence shall carry the same with him and shall produce the same on the demand of any district officer or police officer.

(4) The provisions of sections 12, 13 and 14 of this Ordinance shall not apply to—

- (a) any commercial traveller;
- (b) any person hawking or peddling only goods in respect of which no licence under this Ordinance is required for the sale thereof in a store;

Hawkers' licences.

Pedlars' licences.

Servants of hawkers and pedlars.

Exceptions.

(c) any person selling goods in any market legally established;

(d) any person selling fish, fruit, milk, victuals, firewood or newspapers;

(e) any person selling religious or instructive literature to natives.

15. Licences shall be issued by the Treasurer or his duly authorized representative: Provided that a licence to practise as an advocate shall be issued by a registrar or deputy registrar of the Supreme Court.

Issue of licences

16. (1) Every application for a professional licence or a business licence shall be in the appropriate form contained in Schedule E to this Ordinance, and every licence issued under this Ordinance shall be in the appropriate form contained in Schedule F to this Ordinance.

Application for licences

(2) Every application for a professional licence or a business licence shall be signed by the person proposing to practise the profession, or by the owner, manager or authorized representative of the business: Provided that a business licence may be issued without written application if the applicant applies in person for the licence and the licensing authority is satisfied that the applicant has not sufficient knowledge of the English language to be able to apply in writing.

17. (1) The following professions and businesses shall be exempt from the operation of this Ordinance:—

(a) the business or trade of a planter, farmer, stock raiser, market gardener or dairyman disposing of his own produce, but not including a manufacturer of sugar or a manufacturer of tea or a manufacturer of roasted coffee;

(b) a business for which a licence is taken out under any law for the time being in force relating to intoxicating liquor in respect of brewers or traders dealing solely in intoxicating liquors;

(c) the business of mining under the authority of a prospecting right, an exclusive prospecting licence, a location or a mining lease granted under the

Mining Ordinance, 1933, or the Oil Production Ordinance, 1924, or any legislation substituted therefor:

- (d) domestic industries carried on by natives;
- (e) brickmakers, butchers and bakers catering solely for native trade;

(2) The Governor may exempt any profession or business or any person practicing any profession or carrying on any business from the operation of this Ordinance either generally or in any area, or he may reduce the fee payable under this Ordinance in respect of any business or profession if, in his opinion, such exemption or reduction is desirable in the interests of the community or for any other reason which may seem to him to be sufficient.

Powers of Governor to exempt.

18. (1) The Governor may, from time to time, by order appoint the Treasurer and any other persons employed in the public service to be styled "the Licensing Commissioners" (in this Ordinance referred to as "the Commissioners") to superintend the licensing of professions and businesses under this Ordinance.

Licensing Commissioners.

(2) The Commissioners may, from time to time, give general or specific directions to licensing authorities as to the performance of their duties, and may direct or authorize any question of doubt or difficulty in connection with their duties to be referred to the Commissioners for decision.

(3) Any direction or decision of the Commissioners shall be observed and given effect to by licensing authorities but shall not be binding on any court.

19. (1) Any licensee under this Ordinance who employs in his shop, office or other place of practice or of business any agent, clerk or other person shall be answerable for the acts of such agent, clerk or other person in so far as they concern the profession or business of such licensee in relation to this Ordinance; and if such agent, clerk or other person commits any act which is an offence against the provisions of this Ordinance, such licensee and his agent, clerk or other person shall be jointly and severally liable to the forfeitures, fines and penalties thereby incurred.

Licensee responsible for acts of employee.

(2) The licensee shall not be allowed to plead as a bar to the proceedings taken against him that any such agent, clerk or other person who may have committed such offence did so without his authority, or was not acting in the capacity of an agent, clerk or other person employed.

20. The Governor in Council may make rules—

- (a) prescribing forms of application, forms or licences and any other forms required for the better carrying out of the provisions of this Ordinance;
- (b) amending or revoking the forms set out in Schedule B and Schedule F to this Ordinance;
- (c) generally for the better carrying out of the provisions of this Ordinance.

Rules.

21. Any person who is guilty of an offence against this Ordinance or who acts in contravention of any of the provisions thereof or of any rules made thereunder shall, if no other penalty is imposed by this Ordinance or by any rules made thereunder, be liable on conviction for each offence to a fine not exceeding ten pounds and in default of payment to imprisonment for a term not exceeding one month.

Offences.

22. The Licensing Ordinance, 1933, is hereby repealed.

Repeal.

SCHEDULE A.

The licences described in this Schedule shall be known as "professional licences".

Every licence issued shall authorize the exercise of the profession described in the licence but shall not authorize the exercise of any other profession or the carrying on of any business for which a separate fee is prescribed under the Ordinance.

Per annum
\$A.

1. A licence to carry on the profession of an architect and/or quantity surveyor	300
2. A licence to carry on the profession of an accountant and/or auditor	300
3. A licence to carry on the profession of an advocate	300
4. A licence to carry on the profession of a medical practitioner and/or a dentist or dental surgeon	300
5. A licence to carry on the profession of a consulting engineer	300
6. A licence to carry on the profession of a veterinary surgeon	300
7. A licence to carry on the profession of a land surveyor	300
8. A licence to carry on the profession of an assayer and/or geologist	300

SCHEDULE B.

The licences described in this Schedule shall be known as "business licences".

Every licence issued shall authorize the carrying on of the business described in such licence but shall not, save as otherwise specifically provided in a licence issued under item 6 of this Schedule authorize the exercise of any profession or the carrying on of any other business for which a separate fee is prescribed under the Ordinance.

	<i>Per annum</i> <i>Sh.</i>
1. A licence to carry on the business of a house, land and estate agent	200
2. A licence to carry on the business of an estate managing agent	100
3. A licence to carry on the business of an assessor or valuator	200
4. A licence to carry on the business of a bookkeeper (not required to be taken out by any person holding a professional licence as an accountant and/or auditor)	100
5. A licence to carry on the business of a secretary	100
6. A licence to carry on any or all of the businesses described in this Schedule	800

SCHEDULE C.

The licences described in this Schedule shall be known as "business licences".

Every licence issued shall authorize the carrying on of the business described in such licence but shall not, save as otherwise specifically provided in a licence issued under item 7 of this Schedule, authorize the exercise of any profession or the carrying on of any other business for which a separate fee is prescribed under the Ordinance.

	<i>Per annum</i> <i>Sh.</i>
1. A licence to conduct the business of a petty dealer:— For each place of business where the value of the goods on hand does not at any one time during the period of the validity of the licence exceed £75— (a) in a municipality, township or trading centre	30
(b) elsewhere	10
2. A licence to conduct the business of a trader— For each place of business— (a) where the value of goods on hand does not at any one time during the period of the validity of the licence exceed £300	75

Per annum
Sh.

(b) where the value of goods on hand does not at any one time during the period of the validity of the licence exceed £1,000	300
(c) where the value of goods on hand does not at any one time during the period of the validity of the licence exceed £2,000	450
(d) where the value of the goods on hand may at any one time during the period of the validity of the licence exceed £2,000	600
3. A licence to carry on the business of a manufacturer with the right to purchase raw materials necessary to the business of a manufacturer and to sell the goods manufactured by him:— For each place of business where the gross receipts derived from such manufacturing business during the period of twelve months immediately preceding the date upon which liability to take out the licence arose— (a) did not exceed £300	30
(b) exceeded £300 but did not exceed £2,500	100
(c) exceeded £2,500 but did not exceed £5,000	300
(d) exceeded £5,000	750
Provided that, in cases where trade may not have been carried on for the period of twelve months immediately preceding the date upon which the liability to take out a licence arose, the fee shall be based upon the gross receipts estimated to be derived from the trade during the period of twelve months immediately following the date upon which the liability to take out a licence arose.	
4. A licence to carry on the business of a commission agent and/or manufacturer's representative	400
5. A licence to carry on the business of an exchange banker	1,000
6. A licence to carry on the business of a clearing and forwarding agent	100
7. A licence to carry on any or all of the businesses described in this Schedule	1,200
For the purposes of this Schedule "goods on hand" excludes domestic produce not for sale direct to the consumer.	

30

SCHEDULE D.

The licences described in this Schedule shall be known as "business licences".

Every licence issued shall authorize the carrying on of the business described in such licence, but shall not authorize the exercise of any profession or the carrying on of any other business for which a separate fee is prescribed under this Ordinance.

	Per annum Sh.
1. A licence to carry on the business of a banker :—	
For each principal or only place of business	4,000
For each branch	500
2. A licence to carry on the business of an oil company (including branches)	4,000
3. A licence to carry on the business of an electric light distributor for gain, unless specifically exempted by the Governor in Council :—	
For each area of distribution	2,500
4. A licence to carry on the business of a shipping company or agency (including branches, agencies or sub-agencies)	1,000
5. A licence to carry on the business of stevedoring and lightering	1,000
6. A licence to carry on the business of an insurance company or insurance underwriters payable by each separate insurance company or separate group of underwriters operating through a head office, branch office, agency or sub-agency :—	
Life (including bond investment and industrial assurance)	
The receiving or collecting of life assurance renewal premiums in respect of life assurance contracts entered into and in force in a place outside the Colony and which by the nature of the contract it is obligatory on the company or underwriters to continue to receive until such contract expires, becomes void or otherwise determines, shall not, for the purposes of this Schedule be deemed to be carrying on the business of insurance	200
Fire, or other perils written in conjunction with fire	200
Marine (including transit insurance of any kind other than personal baggage insurance)	300

31

Per annum
Sh.

Accident, including burglary, personal baggage, personal accident and sickness, employers' liability and third-party risks, guaranteed live stock, motor and plate glass	200
Insurance business generally	500
7. A licence to carry on the business of a turf commission agent or turf accountant :—	
For each individual carrying on such business whether alone or in partnership with another person or persons or as the director of a company	500
8. A licence to carry on the business of a coffee carter (not required by a farmer curing only his own coffee for export purposes)	500
9. A licence to carry on the business of stock and share broker	300
10. A licence to carry on the business of transporting passengers and goods by air	200
11. A licence to carry on the business of a fuel contractor	200
12. A licence to carry on the business of a ballast contractor	200
13. A licence to carry on the business of a tourist agency	100
14. A licence to carry on the sole business of a safari outfitter	100
15. A licence to carry on the sole business of a trophy dealer and taxidermist (the holder of this licence shall not be required to take out a licence as a petty dealer or trader under Schedule C merely in respect of his business as a trophy dealer and taxidermist)	100
16. A licence to carry on the business of a newspaper publisher :—	
(a) for the publication for twelve months of one daily edition of a newspaper	200
(b) for the publication for twelve months of a newspaper, other than a daily newspaper, issued at intervals not exceeding seven days	100
17. A licence to carry on the business of an hotel, boarding and/or lodging house :—	
(1) With twenty or more bed or sleeping rooms	400

Per annum
Sh.

(2) With not less than six and not more than nineteen bed or sleeping rooms—	
(a) in respect of premises situate in or within three miles of the boundaries of Nairobi Municipality or Mombasa	300
(b) in respect of premises situate in or within three miles of the boundaries of Nakuru Municipality, Eldoret Municipality, Kisumu Township or Kisumu Township	200
(c) in respect of premises situated elsewhere	100
(3) With not less than two and not more than five bed or sleeping rooms	50
18. A licence to carry on the business of a restaurant keeper (not required in respect of a restaurant which may be carried on in connection with a business of an hotel, boarding and/or lodging house licensed as such under this Ordinance) —	
For each place of business—	
(a) European	100
(b) Non-European in a municipality, township or trading centre	10
19. A licence to carry on the business of a builder, or building contractor	300
20. A licence to carry on the business of a brickworks	200
21. A licence to carry on the business of a dry cleaner and/or laundry man (not including a dhobi working single-handed)	100
22. A licence to carry on the business of a baker (the holder of this licence shall not be required to take out a licence as a petty dealer or a trader under Schedule C merely in respect of his business as a baker)	100
23. A licence to carry on the business of a vulcanizer	50
24. A licence to carry on the business of a photographer	50
25. A licence to carry on the business of an employment bureau	30
26. A licence to carry on the business of a dealer in stone or sand	30
27. A licence to carry on the business of a commercial traveller for three months	400

SCHEDULE E.

COLONY AND PROTECTORATE OF KENYA. The Licensing Ordinance, 1934.

FORM OF APPLICATION FOR A LICENCE TO CARRY ON A BUSINESS. (Schedule B, Schedule C and Schedule D of the Ordinance.)

A separate form must be completed in respect of each licence applied for.

1. Name under which the business is to be carried on
2. Full address where the business is to be carried on
3. Name of proprietor, partner or owning company
4. Full description of the business for which a licence is required

N.B.—Before completing this section applicants are advised to refer to the description of businesses in the relative Schedules.

5. State number and date of licence previously held; or state date of commencing business
6. State period for which licence is required

N.B.—In any case where the annual fee is not less than Sh. 300 a licence may be issued for six months with effect from the 1st January the fee payable being half the amount of the annual fee.

I hereby certify that the information given in this application is true and correct.

Signature of applicant

Date

Designation

Declaration to be completed by an applicant for a licence to carry on the business of an hotel, boarding and/or lodging house.

I hereby certify that the number of bed or sleeping rooms which I have set apart and furnished for letting is not more than

Date

Signature

Per annum
Sh.

(2) With not less than six and not more than nineteen bed or sleeping rooms—	
(a) in respect of premises situate in or within three miles of the boundaries of Nairobi Municipality or Mombasa	300
(b) in respect of premises situate in or within three miles of the boundaries of Nakuru Municipality, Eldoret Municipality, Kitale Township or Kisumu Township	200
(c) in respect of premises situated elsewhere	100
(3) With not less than two and not more than five bed or sleeping rooms	50
18. A licence to carry on the business of a restaurant keeper (not required in respect of a restaurant which may be carried on in connection with a business of an hotel, boarding and/or lodging house licensed as such under this Ordinance)	
For each place of business—	
(a) European	100
(b) Non-European—in a municipality, township or trading centre	10
19. A licence to carry on the business of a builder, or building contractor	300
20. A licence to carry on the business of a brickworks	200
21. A licence to carry on the business of a dry cleaner and/or laundry man (not including a dhobi working single-handed)	100
22. A licence to carry on the business of a baker (the holder of this licence shall not be required to take out a licence as a petty dealer or a trader under Schedule C merely in respect of his business as a baker)	100
23. A licence to carry on the business of a vulcanizer	50
24. A licence to carry on the business of a photographer	50
25. A licence to carry on the business of an employment bureau	30
26. A licence to carry on the business of a dealer in stone or sand	30
27. A licence to carry on the business of a commercial traveller for three months	400

SCHEDULE E.

COLONY AND PROTECTORATE OF KENYA
The Licensing Ordinance, 1934.

FORM OF APPLICATION FOR A LICENCE TO CARRY ON A BUSINESS. (Schedule B, Schedule C and Schedule D of the Ordinance.)

A separate form must be completed in respect of each licence applied for.

1. Name under which the business is to be carried on
2. Full address where the business is to be carried on
3. Name of proprietor, partner or owning company
4. Full description of the business for which a licence is required
5. State number and date of licence previously held; or state date of commencing business
6. State period for which licence is required

N.B.—Before completing this section applicants are advised to refer to the description of businesses in the relative Schedules.

N.B.—In any case where the annual fee is not less than Sh. 300 a licence may be issued for six months with effect from the 1st January the fee payable being half the amount of the annual fee.

I hereby certify that the information given in this application is true and correct.

Signature of applicant

Date

Designation

Declaration to be completed by an applicant for a licence to carry on the business of an hotel, boarding and/or lodging house.

I hereby certify that the number of bed or sleeping rooms which I have set apart and furnished for letting is not more than

Date

Signature

Declaration to be completed by an applicant for a licence to carry on business as a petty dealer, or as a trader (section 1 and section 2 of Schedule C).

In respect of the licence for which I make application, I hereby certify that the value of the goods on hand will not at any time during the period of validity of the said licence exceed £.....

Date..... Signature.....

Declaration to be completed by an applicant for a licence to carry on business as a manufacturer (section 3 of Schedule C).

In respect of the licence for which I make application, I hereby certify that the gross receipts derived from the business during the twelve months immediately preceding the 2nd of January, did not exceed £.....

Date..... Signature.....

FOR OFFICIAL USE ONLY.

Licence No. Date Fee.....
 Issued in the name of
 in respect of premises situate
 under section of Schedule.....
 Station..... Licensing Authority.....
 Registered.....

SCHEDULE E.

COLONY AND PROTECTORATE OF KENYA.

The Licensing Ordinance, 1934.

Form of application for licence to practise a profession (Schedule A). A separate form must be completed in respect of each licence applied for.

Full name of applicant

Description of the profession for which a licence is required

Business name under which the profession will be practised, i.e. proprietor, partner or owning company

Full address where profession will be practised

Date..... Signature.....

FOR OFFICIAL USE ONLY.

Licence No. Date..... Fee.....
 Issued in the name of
 in respect of premises situate at
 under section
 Date..... Licensing Authority.....

SCHEDULE F.

COLONY AND PROTECTORATE OF KENYA.

The Licensing Ordinance, 1934.

BUSINESS LICENCE.

Station.....

Licence is hereby granted to
 of (address) of

on premises situated at
 This licence expires on the day of 19.....

Fee paid (in words) (Sh.)

Date..... Licensing Authority.....

SCHEDULE F.

COLONY AND PROTECTORATE OF KENYA.

The Licensing Ordinance, 1934.

HAWKER'S LICENCE.

Station.....

Licence is hereby granted to
 to hawk goods in the Colony for a period
 of month/s.

This licence expires on the day of 19.....
 Fee paid (in words) (Sh.)

Date..... Licensing Authority.....

SCHEDULE F.

COLONY AND PROTECTORATE OF KENYA.

The Licensing Ordinance, 1934.

PROFESSIONAL LICENCE.

Station.....

Licence is hereby granted to

of (address)

to practice the profession of

This licence expires on the day of, 19.....

Fee paid (in words) (Sh.)

Date..... Licensing Authority.....

SCHEDULE F.

COLONY AND PROTECTORATE OF KENYA.

The Licensing Ordinance, 1934.

PEDLAR'S LICENCE.

Station.....

Licence is hereby granted to

..... to peddle goods in the Colony for a period

of month/s.

This licence expires on the day of, 19.....

Fee paid (in words) (Sh.)

Date..... Licensing Authority.....

Collection of Licence Fees by Government.

POSSIBILITY OF DELIBERATE LAXNESS SUGGESTED.

Taxation of Traders.

INTERESTING DEBATE AT MEETING OF CHAMBER OF COMMERCE.

Consideration was given by the Nairobi Chamber of Commerce on Friday to the question of the systematic and adequate collection of traders' and other licence fees by Government, and, generally, to the incidence of taxation on the trader.

Captain C. B. Anderson suggested the possibility that Government had deliberately avoided proper collection of certain licence fees in order to provide them with grounds for the revival of the income tax proposals, based on the statement by the Secretary of State that if the alternative taxes failed he would introduce income tax.

Mr. T. A. Wood was delegated to represent the Chamber on a committee which His Excellency the Governor proposes to appoint for the purpose of examining the provisions of the Licensing Ordinance, 1935, and suggesting such amendments as may be considered advisable.

Committee to Examine Licensing Ordinance.

A suggestion that the Government was possibly being deliberately lax in the collection of some of the "alternative taxes"—thus named because they were introduced instead of income tax—in an attempt to prove that they had failed, and that, therefore, they would be justified in re-introducing income tax proposals, was made at Friday's meeting of the Nairobi Chamber of Commerce, over which Mr. R. F. Mayer presided.

The discussion arose on the reading of the following letter received from the Colonial Secretary:—

"I have the honour to inform you that His Excellency the Governor proposes to appoint a committee to examine the provisions of the Licensing Ordinance, 1935, in the light of experience gained and to suggest such amendments as may be considered advisable, due regard being had as to the necessity for amending or increasing the revenue from this source.

Composition of Committee.

"It is proposed that the committee be constituted as follows:—The Treasurer, chairman; the Chief Native Commissioner; the Solicitor-General; one member nominated by the Nairobi Chamber of Commerce; one member nominated by

the Government; and one member purely of the opinion that the amount of licence fees should not be increased; but it was rather a different matter to suggest that the total revenue derived from such fees should not be augmented.

There was more than a little evidence, he said, that the correct licence fees were not being paid by everyone to-day, and it was also a fact that some were not being collected. If proper collection were instituted and everyone liable to pay was made to pay, then he had no doubt at all that the revenue derived by Government from that source would be considerably greater than it was now. Certainly there should be no increase in the rate of the fee.

Collection Avoided.

Captain Anderson continued: "There is a possibility that Government has deliberately avoided the adequate collection of this tax in view of the statement of the Secretary of State that if these alternative taxes failed he would introduce income tax." He thought the Chamber should not restrict any delegate to the committee in so far as his powers went to ascertain whether or not these taxes were being adequately collected.

Mr. Pari then proposed that the delegate to the Trade Licensing Committee be instructed not to

COLLECTION OF LICENCE FEES BY GOVERNMENT.

(Continued from page 5.)

Ox Transport Fees.

He gave as an example the fees in respect of ox transport. Since the Government had taken over the collection of those fees, at least 75 per cent. of them remained uncollected. Not only that, but the stipulation made by the Municipality that ox carts should have a certain type of axle with a view to minimising damage to roads was no longer insisted upon.

The Mayor, Mr. G. Gwynett-Borages thought it would be almost impossible to frame a resolution which would be sufficiently clear and comprehensive to serve as a guide to the delegate. It would be better for the delegate to be given discretion to act, after gauging the feeling of the Chamber.

The meeting agreed to the appointment of Mr. Wood.

Traders in Cleft Stick.

Mr. Wood thanked the members for their expression of confidence. It seemed to him, he said, that the trading community were, and always had been, in a cleft stick in the matter of taxation. He would do his best as a member of the committee to put forward the view that if there was to be any change in the licence fee, it should be in the direction of a reduction rather than an increase. (hear hear.)

The Government, he added, seemed to find the trader a very useful person. He paid for his goods; he paid Customs duty and postage on them in cash; then he put them on his shelves and hoped for customers. Having eventually sold his goods he hoped to receive payment for them within three months, but there was a great deal of trust in the transaction. The Government, however, got their dues in respect of them in hard cash.

Systematic Collection.

The chairman said a short time ago a person came to the Colony with goods to exhibit and sell, and was told by an official in authority that he need not take out a trader's licence unless someone complained! He was sure Mr. Wood would keep in mind the fact that the enforced and systematic collection of taxes would go a long way to increasing the revenue derived from them.

Mr. Mitchell referred to private importations, and suggested that Mr. Wood might keep in mind the desirability of imposing a small tax on the private imports.

Mr. Roben said it seemed likely that certain Government Departments were going to be short of revenue and that they might be considering ways and means of making up the deficit in another

introduced instead of the... in an attempt to prove that they had failed, and that, therefore, they would be justified in re-introducing income tax proposals, was made at Friday's meeting of the Nairobi Chamber of Commerce, over which Mr. R. F. Mayer presided.

The discussion arose on the reading of the following letter received from the Colonial Secretary:—

"I have the honour to inform you that His Excellency the Governor proposes to appoint a committee to examine the provisions of the Licensing Ordinance, 1938, in the light of experience gained and to suggest such amendments as may be considered advisable, due regard being had as to the necessity for amending or increasing the revenue from this source.

Composition of Committee.

It is proposed that the committee be constituted as follows:—The Treasurer, chairman; the Chief Native Commissioner; the Solicitor-General; one member nominated by the Nairobi Chamber of Commerce; one member nominated by the Mombasa Chamber of Commerce; one member nominated by the Federation of Indian Chambers of Commerce and Industry; one professional member; and one European Elected Member of Legislative Council (provided that the Elected Member is not nominated by a Chamber of Commerce).

"I should be glad to know whether your Chamber will be prepared to nominate a member to serve on this committee."

The chairman said the management committee had considered the letter and recommended that a member of the Chamber be nominated to serve on the proposed committee. The names of Mr. T. A. Wood, Mr. G. Tyson and Mr. W. C. Mitchell were put forward for consideration by the Chamber.

Instruction to Representative.

Mr. Mayer added that the management committee suggested that the general meeting of the Chamber might agree that whoever was appointed should agree to any proposal which would lead to an increase in the total amount of the revenue received from licence fees; although that would preclude consideration of adjustments.

Mr. Tyson and Mr. Mitchell asked that their names should be withdrawn and supported the nomination of Mr. Wood.

Mr. Puri said he would only support the proposal to send a representative from the Chamber if the Chamber's nominee was instructed very definitely on no account to agree to an increase in the total amount of revenue derived from trade licences.

Taxed to Limit.

He thought that members would agree that traders were already taxed to the utmost limit; any further increase, he was sure, would be the last straw which would break the camel's back.

Capt. C. B. Anderson said he thought they should be a little careful as to what exactly the view of the Chamber was. He was en-

There was more than a little evidence, he said, that the correct licence fees were not being paid by everyone to-day, and it was also a fact that some were not being collected. If proper collection were instituted and everyone liable to pay was made to pay, then he had no doubt at all that the revenue derived by Government from that source would be considerably greater than it was now. Certainly there should be no increase in the rate of the fee.

Collection Avoided.

Captain Anderson continued: "There is a possibility that Government has deliberately avoided the adequate collection of this tax in view of the statement of the Secretary of State that if these alternative taxes failed he would introduce income tax." He thought the Chamber should not restrict any delegate to the committee in so far as his powers went to ascertain whether or not these taxes were being adequately collected.

Mr. Puri then proposed that the delegate to the Trade Licensing Committee be instructed not to agree to any increase in the rate of fees for trade licences.

Mr. E. Ruben said there was no doubt in his mind that taxes were not being collected properly. For instance, since Government had taken over the collection of dues formerly paid to the Nairobi Municipality, there had been a big discrepancy in the respective totals.

ed for customers. Having eventually sold his goods he liked to receive payment for them within three months, but there was a great deal of trust in the transaction. The Government, however, got their dues in respect of them in hard cash.

Systematic Collection.

The chairman said a short time ago a person came to the Colony with goods to exhibit and sell, and was told by an official in authority that he need not take out a trader's licence unless someone complained! He was sure Mr. Wood would keep in mind the fact that the enforced and systematic collection of taxes would go a long way to increasing the revenue derived from them.

Mr. Mitchell referred to private importations, and suggested that Mr. Wood might keep in mind the desirability of imposing a small tax on the private imports.

Mr. Ruben said it seemed likely that certain Government Departments were going to be short of revenue and that they might be considering ways and means of making up the deficit in another direction.

Vigilance Committee.

In view of that, he thought it might be wise to set up a watch committee to protect traders' interests, since it was quite likely that any suggested increase in taxation would be another blow at the trader.

The chairman commented that the Chamber itself was a watch committee.

Mr. Wood said any proposed changes in taxation would, of course, require the sanction of the Legislative Council, and presumably bills relating to them would be published for the information of the public. The management committee of the Chamber always took careful notice of bills affecting the commercial community.

The Chamber could not at this stage go to Government and say that it was believed the intention was to increase taxation; they must wait until any such proposals were put forward.

NO. 309

Copy - Original no. 2093/54

AUGUST, 1934.

Sir,
With reference to your despatch No. 857 of the 14th November, 1933, on the subject of the "Alternative Revenue Proposals" to which effect was given by legislation in August, 1933, I have the honour to submit a report showing how the actual revenue yield from the various Ordinances compares with the forecast made in paragraph 19 of my despatch No. 555 of the 14th September, 1933.

2. The Non-Native Poll Tax Ordinance, 1933.

You will have been aware from my despatch No. 180 of the 27th April, 1934, that certain defects in the principal Ordinance were found to exist and that the Non-Native Poll Tax (Amendment) Ordinance No. 1 of 1934 was passed to remedy them. The Ordinance as so amended has worked smoothly and collections have proceeded satisfactorily. The gross yield of the tax in a full year was estimated at £66,000, including additional revenue of £31,000. In the light of actual collections to date it is hoped that the estimate will be realized.

3. The Licensing Ordinance, 1933. A Report of the Licensing Commissioners is enclosed for your information

from which it will be observed that as a revenue measure the Ordinance has not come up to expectation. It is my intention/

MAJOR SIR PHILIP DUNLAP LISTER, F.C.S., G.B.E., M.C., R.F.
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON S.W.1.

intention therefore to appoint a committee to consider the question of replacing this Ordinance by one calculated to prove more satisfactory. The following terms of reference have been approved by Executive Council:-

To examine the provisions of the Licensing Ordinance 1933 in the light of experience gained and to suggest such amendments as may be considered advisable due regard being had to the necessity for maintaining or increasing the Revenue from this source.

N. 12

With reference to paragraph 2 of your despatch under reference and to your despatch No. 525 of the 30th April I would observe that I have now decided that licence fees should not be collected from dentists under the Ordinance, and that refunds should be made in the few cases in which fees have been collected. It is hoped that the matter will be regularized in the new Ordinance which the committee's deliberations will probably show to be necessary.

When the Ordinance was passed it was estimated that the gross yield of revenue thereunder in a full year would amount to £55,000, including additional revenue of £35,000. Experience in actual collections during the first three months of the operation of the new Ordinance led the Treasurer to believe that the gross yield would amount only to £47,000 with a result that this figure was inserted in the Revenue Estimates for the current year.

Up to the end of May, 1934, the revenue from this source totalled approximately £30,000. The Treasurer's revised estimate for this year has accordingly been reduced to one of £35,000, including additional revenue of only £15,000.

4. The Tax on Imported Packages Ordinance, 1933.
The Commissioner of Customs reports that in actual working this Ordinance has presented for administrative difficulties. Actual receipts up to the end of April last totalled £5,557.

14/

It is therefore anticipated that the full amount of £10,000 additional revenue will accrue from this source in 1934.

5. The Stamp (Amendment) Ordinance, 1933. The new taxes imposed by this legislation have caused no difficulty in collection. When the measure was passed it was estimated that the tax on the registration of Companies would yield additional revenue amounting to £5,000 in a full year, whilst that on bills of exchange and promissory notes would yield £1,000. I am advised that the actual yield during the first half of this year has been approximately £3,122 and £520 respectively. In the circumstances the Treasurer's revised estimates of the yield for the full year are £6,500 and £700 respectively, making a total of £7,200 or £1,000 more than allowed for in the Revenue Estimates for the current year.

6. For convenience of reference a schedule is attached showing original estimates, actual collections and revised estimates of the additional revenue derived or expected to be derived from the Ordinances referred to in this despatch. It will be observed that the Alternative Income Proposals, taken as a whole, have failed by a very considerable sum to produce the revenue originally estimated by the Committee.

I have the honour to be,

Sir,

Your most obedient, humble servant,

BRIGADIER GENERAL.
GOVERNOR.

REPORT OF THE LICENSING COMMISSIONERS
UPON THE WORKING OF THE LICENSING ORDINANCE, 1933.
AS AT 25TH JUNE, 1934.

Section 15 (1) of the Licensing Ordinance, 1933, provides for the appointment by His Excellency the Governor of Licensing Commissioners to superintend the licensing of businesses and professions under the Ordinance to give general and special directions to licensing officers as to the performance of their duties, and to direct or authorise any questions of doubt or difficulty in connection with their duties.

Under Government Notice No. 624 of the 18th September, 1933, the Treasurer, the Commissioner of Police and the Solicitor General were appointed Licensing Commissioners and we now beg to submit the following report on our experience of the operation of the Licensing Ordinance.

We have met upon seventeen occasions, the first meeting being held on the 27th September, 1933, and the last meeting on the 25th June, 1934, there being, in addition, occasions when it was found to be expedient to circulate matters for consideration. Although there appears to be some slight abatement in the amount of material requiring consideration it is, in our opinion, most probable that further meetings at regular intervals will be necessary for some time to come.

Dealing first with the question of the administration of the Ordinance we have to report very considerable difficulties not only in interpreting the actual terms of the Ordinance but also in providing a measure of equity and giving effect to the known intentions of the Ordinance.

The Ordinance is based upon that operating in Tanganyika Territory and we feel that the difficulties encountered ...

encountered are largely due to the superimposition in Kenya of additional provisions but, whatever the reason may be we were early of the opinion that amendment in no inconsiderable degree would undoubtedly be necessary. At this date the degree of amendment desirable would appear to be so considerable that we feel bound to recommend for consideration the repeal of the Licensing Ordinance, 1954, and the substitution thereof of fresh legislation based upon existing experience and careful investigation. We feel that trading conditions in Kenya are not in any large degree analogous with trading conditions which may obtain elsewhere and we would advise fresh consideration of the whole question.

Considered as a revenue measure the Ordinance has not come up to expectation. The additional amount realised in 1955 was £7000 (Approximately) whilst a total figure of not more than £55,000 is to be expected in the current year. This latter figure compares with the sanctioned Estimate for 1954 of £40,000 and a figure of £50,000 which was the revised estimates of the Alternative Revenue Proposals Committee appointed to consider this measure in 1955. We hold no views as to the amount of revenue which properly should accrue from trading activities in the Colony but in our opinion the question of incidence of fee and the facilities available in each licence require special consideration in the interests of equity and, perhaps, of revenue.

As an example we would quote the case of a firm handling produce in large quantities, acting as brokers and making advances against crops: who also conduct business as manufacturers agents, handle considerable shipping business, transact all classes of insurance and undertake secretarial work and estate management. A firm of

this ...

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this description would take out a licence under Section 7(1)(a) at Rs. 600/- and if they held a coffee dealer's licence at Rs. 200/- such amount would be set-off in accordance with the apparent intention of the Ordinance. The actual fee paid for the privilege of carrying on business would therefore amount to Rs. 400/- only, a figure which in our opinion bears no relationship to the volume and variety of business carried on and which presents a distinct anomaly when compared for example with the fee of Rs. 450/- paid by quite small retail traders under Section 7(1)(c). We would here point out that revenue under Section 7(1)(a) as at 22nd May, 1954 amounts to no more than Rs. 7,750 and in our opinion the figure for the year is not likely to be much in excess of Rs. 8,000.

The whole question of licences to carry on businesses issued under other Ordinances and the method of dealing with these licences in relation to the main Licensing Ordinance of 1953 would appear to require comprehensive review.

We are of the opinion that existing licence fees under Section 7(1)(c) in respect of the business of a retail trader are unduly arbitrary. In so far as the Rs. 80/- fee is concerned the situation has in part been met by a delegation of powers of exemption and remission but there is, in our opinion, a case for discrimination beyond that provided by the fees of Rs. 80/- and Rs. 450/-. We doubt very much whether the revenue aspect need prove to be other than advantageous and the suggestion would not, we believe, involve in an undue degree, any repugnant principle. We have had before us more than one suggestion of this nature from district licensing authorities who are also, in some cases, of the opinion that fees could more conveniently ...

conveniently be based upon stocks which may be held during the currency of the licence. The desirability of this latter suggestion depends in some degree upon the extent and the possibility of control and inspection which may thereby become necessary but we are constrained to agree that the invariable absence of books in the case of ^{the} small trader removes the remote possibility of a check under the present arrangement.

In connection with retail trade two other points have been brought to our notice with some insistence, namely the question of a half yearly licence expiring on the 30th June and the absence of provision for the transfer of a licence from one trader to another. We feel that the matter of a half yearly licence should receive consideration and although administrative work would to some extent be increased we believe that the main objections are met by the existence of the Revenue Office records. We observe no serious objection to provision for the transfer of a licence between traders. We would mention that at the 22nd May, 1934, as retail traders for the current year some 400 persons have taken out the licence at Rs. 450/-, whilst approximately 3,160 have taken out the licence at Rs. 50/- and we anticipate that the existing revenue from retail traders amounting to approximately £15,000 will increase to approximately £16,000 during the year.

We are agreed that the present form of provision in section 7(1)(1) for the licensing of Temperance Hotels and Boarding Houses should be amended to conform with the original proposal of the Alternative Revenue Proposals Committee which provided for a simple annual fee in cases where accommodation was provided for, say, ten or more guests. The number of houses accommodating

one or two guests must be considerable but for obvious reasons only a small percentage come within the purview of a collector. In a majority of cases it would be extremely difficult to prove that persons who may accommodate a relative or a close friend at a purely nominal figure were carrying on a business.

Very considerable difficulty has arisen from the provision existing in Section 7(1)(P) - "A licence to carry on any other business, Sh. 100/-" - by reason of the fact that the number of businesses not covered by other sub-sections of Section 7(1) are considerable and various and cannot in our opinion be licensed thus; nor can the situation conveniently be met by a series of gazetted notices. To bring within the scope of the Ordinance all unspecified businesses by making a charge of Sh. 100/- when under the proviso to Section 7(1)(c) a large proportion of retail traders are charged Sh. 50/- only, and the list of specified businesses is by no means exhaustive, is in our opinion wrong in principle. That a small furniture manufacturer or a single handed transport contractor for example should be called upon to pay Sh. 100/- when a retail shopkeeper with much greater potentialities of profit is chargeable with a fee of Sh. 50/- is clearly inequitable and in our opinion this anomaly should be rectified by incorporating in the Ordinance a list of businesses properly chargeable with a licence fee of (say) Sh. 100/- and by including a 'blanket clause' imposing a fee of Sh. 50/- per annum on "Any other business."

As we have mentioned, considerable trouble has arisen from the superimposition in Kenya of provisions additional to those contained in the

Tanganyika Laws from which the Licensing Ordinance was derived. A notable example is contained in Section 5(2). By reason of the introduction into the Kenya Ordinance of a number of fees not extant in Tanganyika, and the existence of several fees of equal value, we feel that the intention of the section has to a great extent been defeated and that there has arisen a series of inequities.

We would point out that, without further licences, a retail trader having paid Sh. 450/- may carry on several kinds of insurance business, and the business of a Temperance Hotel or a lodging house, whilst the licensed turf accountant may not only carry on an insurance business and the business of a Temperance Hotel or lodging house, but he may also carry on the business of a commercial traveller, manufacturer's agent, and a variety of professions. An extreme example of this description exists in the licence to distribute electric power, the holder of which may carry on all the other businesses specified with the exception of the business of a banker and the business of an oil company. It will be observed that although under Section 5(2) of the Ordinance the holder of a licence may not carry on any business other than that specified in the licence, it does not appear to be the case that the business thus restricted may not be carried on by the holder of some other licence at a higher fee. We would recommend that the facilities potential in each licence should at least be confined to those other businesses which in practice may come to be regarded as reasonable and desirable adjuncts to the main business licensed.

In regard to Section 6(2) of the Ordinance, we feel that the provision which exists for reduction or remission in cases where the business profession or person may be liable to another fee, might well be omitted. We have ...

have endeavoured, in the interests of uniformity, to restrict our recommendations regarding delegation of powers of remission and exemption as far as possible, but we feel that in any circumstances, local knowledge is invaluable and a considerable degree of local power in this direction will always be essential.

We would remark upon the absence of provision for the keeping of books and of exhibiting in a prominent position the name of the proprietor. We recommend that consideration be given to these points and also to the question of facilities for inspection of premises.

Full particulars of the large number of cases investigated by us are, however, recorded and can be made available to the Committee which it is understood will be appointed in due course further to consider this matter.

TREASURER

Sd. G. Walsh.

COMMISSIONER OF POLICE

Sd. R. G. A. Cavendish

Sd. Y. D. H. Bruce.

SOLICITOR GENERAL

REVENUE OF ESTIMATES
OF ADDITIONAL REVENUE FROM "ALTERNATIVE REVENUE PROPOSALS".

Form of Taxation.	The Committee's Estimate in April, 1933.	Departmental Estimates in April, 1933.	Estimates made after the passage of modified legisla- tion.	Amount included in Revenue Esti- mates for 1934, as passed.	Actual collect- ions during period of oper- ation of legisla- tion in 1933.	Estimated receipts during first half of 1934.	Revised Estimate of additional revenue in 1934.
	£	£	£	£	£	£	£
Non-Native Poll Tax.	25,000	25,000	21,000	21,000	29,243	24,000	21,000
Fees and Profes- sional Licenses.	21,000	20,000	22,000	20,600	6,949	10,000	12,000
Tax on Imported Packages.	17,500	17,500	10,000	10,000	670	2,000	10,000
Tax on Registrat- ion of Companies.	11,000	11,000	5,000	5,000	400	2,122	6,300
Stamp Duty on Bills of Exchange etc.	7,000	1,000	1,000	1,000	500	320	700
TOTAL.....	£101,500	£84,500	£60,000	£67,600	£37,470	£42,442	£53,000

R 297

15₄₅

~~Mr. Flood~~

I am sorry I have
omitted to send you the
attached pp. earlier. The
India office letter of 18.12.33
was handed to me to take
to Kenya on 2nd January
I understand that the S.O.S.
Kenya despatch, No. 30 of 12.1.34
bears on the subject.

No. 4

3262/35

below

No. 11

3262/35

S. J. P.

31.3.34

Memo.

46

KENYA

Instruction Dept.

28.1.1934.

C.O. Dept.

No. 30 of 12 / 34

Dear Commissioner,

I enclose the application

for a license for the Trade License

File.

Yours,



I agree with this memo. & a reply
should be sent to the India Office on these

lines-

P.C. 2 7.2.34.

C.S. I presume the reply should be sent by the
Colonial Office if so all we need do is
to transmit a copy of the same including
the S.S. number 223.

47

NOTES ON INDIAN OBJECTIONS TO THE
LICENSING ORDINANCE, 1933.

The federation of Indian Chambers of Commerce and Industry of Eastern Africa submitted a memorandum, of which a copy is enclosed with the India Office letter of the 18th December, to the Colonial Secretary on the 27th September, 1933, with the request that, if it were decided that the Ordinance could not be amended at present as represented in the memorandum, a copy be submitted to the Secretary of State.

No. 8
3262/33

2. A copy was transmitted to the Secretary of State under Kenya despatch No. 652 of the 17th November, 1933, and the federation were informed that a copy had been so forwarded.

3. It was stated in that despatch that the representations had been carefully examined, but that in the short time which had elapsed since the Ordinance was enacted the Government saw no reason to reconsider its decision in regard to the recommendations made by the Select Committee on the bill in its report, which the Government accepted.

4. It was further explained that the object of the measure was admittedly to obtain revenue, and objections were only to be expected from those who found themselves liable to increased licence fees as a result of the Select Committee's recommendations. The revenue collected under the Licensing Ordinance, 1933 was only approximately £7,000 as compared with the estimate of £16,500 submitted by the Alternative Revenue Proposals Committee.

No. 3
3262/33

5. The reasons for the Select Committee's amendments (as set out in para. 10 of Kenya despatch No. 533 of the 14th September, 1933) were:-

(a) The fees of Shs. 200/- for the principal place

of ...

of business and of Shs.100/- for each branch of a wholesale firm not importing or exporting (as provided in the original Bill) were so low, being actually less than the then existing fee of Shs.300/- payable under the Traders Licensing Ordinance, that it was felt both by the Commissioner of Customs and by the Nairobi Chamber of Commerce that there was a risk that importing and exporting would be bulked through an indent house and revenue be thereby lost;

(b) As regards retail traders the difficulties were that some of the largest concerns carry on retail business only and would therefore be contributing no additional revenue, and that many retail traders, particularly in the Indian Bazaars, regularly imported in small quantities. The fixing of a small licence fee of Shs.30/- for retail traders who did import, most of whom under the repealed Ordinance paid the Shs.300/- fee, would not only involve considerable loss of revenue but would tend to put a stop to small importations and so adversely affect the custom of the bazaar trade.

6. The small retail trader (having a stock under £150 value) pays only Shs.30/- p.a., which was the fee payable in townships under the repealed Ordinance.

7. It is true that the effect of the Select Committee's recommendations was to shift the incidence of this alternative revenue measure against the larger retail trader - but of whatever race. In the short time ^{which} ~~for~~ which the Ordinance has been in operation it has not been possible to ascertain to what extent, if at all, the Select Committee's amendments have fallen more ...

more heavily on the Indian than on any other trading community. Practical difficulties have, however, arisen in the administration of the Ordinance and improvements based on the experience already gained of the working of the measure will require to be made. It is understood that the Association of Chambers of Commerce of Eastern Africa will shortly submit proposals for amendment of the Ordinance. The question of trade licences is among the matters to be considered at the next Governors' Conference, and it may be that suitable opportunity will occur, in connection with a fairly comprehensive overhaul of the Ordinance later in the year, for further consideration of the case submitted by the Federation.

8. The Federation allege on page 6 of the memorandum that no opportunity was given to present a case. No comment is necessary on this point, since on the following page of the memorandum it is admitted that an open invitation was issued to the public to give evidence and make representations before the Select Committee.

9. The Federation's telegram referred to on page 7 of the memorandum was received on the 11th August, 1933, the day on which the Select Committee's Report was signed, and there was no time for it to be dealt with before the Bill passed its third reading on the following morning. The Indian Member of the Select Committee signed the Committee's Report, subject to a note of dissent with the amendments objected to by the Federation, and this note of dissent, which explained the reasons therefor, was before the Legislative Council as a part of the Report on the 12th August, 1933.

12

C. O.

Mr. Flood 12/4/34.

Mr. Stanton 14.14.34

Mr. Duncan Please see my private letter file.

Mr. Parkinson.

Mr. Tomlinson.

X Sir C. Bottomley. 23/4/34

Sir J. Shuckburgh.

Permt. U.S. of S.

Early. U.S. of S.

Secretary of State.

30 April, 1934.

DRAFT. DESPATCH.

KENYA.

NO. 325

GOVERNOR.

2 dfts.

Sir,

I have the honour to acknowledge the receipt of your despatch No. 118 of the 7th of March, on the subject of the position of dental surgeons under the Licensing Ordinance, 1933.

As you point out, the Ordinance is a revenue measure, and in order to exempt practising dentists from its provisions it will be necessary to amend the Ordinance, or an order of exemption may be issued under Section 6(2) if, in your opinion, the exemption of the profession of dentistry is desirable in the interests of the community.

FURTHER ACTION.

2. I have ^{as you are aware,} received representations from the British Dental Association, and their Secretary called at the Colonial Office, accompanied by Mr. C. E. Thomas, who is understood to be a dentist in private practice at Mombasa. In the course of ^{conversations} ~~the discussion~~ Mr. Thomas was advised to bring the matter before you again through the local Dental Association or the local branch of the British Medical Association, on his return to Kenya. The grounds upon which an application for exemption might properly be made are, in my opinion, that the number of dentists is small - Mr. Thomas stated that there were only ~~30~~ ⁴⁰, so that the revenue produced by licence fees would be £300 a year only; that the tax worked out unfairly on the qualified European dentist, who was exposed to competition from Indian Sub-Assistant Surgeons, or from Europeans who possess dental qualifications in addition to medical qualifications; that the amount of the licence fee ^{was} ~~was~~ unduly high.

C. O.

- Mr.
- Mr.
- Mr.
- Mr. Parkinson.
- Mr. Tomlinson.
- Sir C. Bottomley.
- Sir J. Shuckburgh.
- Perm. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

DRAFT.

FURTHER ACTION.

so much so as to impose a hardship on the dental profession and that, with the recent improvement of the financial position of Kenya Government might be prepared to consider the exemption of the dental profession in the interests of the community at large.

3. I realise that it is easy to exaggerate the importance of the protests which have been received, but I hardly think it practicable to invite the dentists to suggest a formula for rendering medical practitioners liable to licence fees, as is apparently suggested in the last paragraph of your despatch, and I trust that if the matter is again raised by the dentists in Kenya through Mr. Thomas, or otherwise,

C. O.

Mr Flood 12/4/34.

Mr. Senior 14.4.34

Mr. Flood is.

Mr. Parkinson.

Mr. Tomlinson.

Sir C. Bottomley. 23/4/34

Sir J. Shuckburgh.

Parish, U.S. of S.

Parry, U.S. of S.

Secretary of State.

27 April, 1934.

Sir,

With reference to the letter from this Office of the 27th of January and to the interviews which have taken place between Mr. Senior and Mr. Thomas and members of the Colonial Office staff, I am etc. to request you to inform the British Dental Association that he has now received a further despatch from the Governor of Kenya on the subject of the payment of fees by dental surgeons under the Licensing Ordinance, 1933.

2. The Governor states that he is advised that it is incorrect to take the view that many medical practitioners are in fact engaged

DRAFT.

THE DENTAL SECRETARY,
BRITISH DENTAL ASSOCIATION.

2 dfts.

FURTHER ACTION.

in practising dentistry in the Colony by virtue of their medical qualifications. No doubt in remote places where there are no dentists medical practitioners may perform extractions or carry out other dental work in case of emergency, and a few may perform dental operations for native or Indian patients who could not afford to or would not go to a dentist, but the Governor is advised that there is no evidence that any medical practitioners are engaging generally in the practice of dentistry.

3. As you are aware, Mr. Thomas was ^(in connection) advised to take up the matter again with the Governor on his return to Kenya, and a despatch has been addressed to the Governor informing him that Mr. Thomas would probably adopt this course.

I am, etc.,

(Signed) J. E. W. FLOOD

C. O.

Mr. Flood.

Dr. Stanton 21. 4. 34

Mr. Flood 21. 4.

Mr. Parkinson.

Mr. Tomlinson.

X Sir C. Bottomley 13. 4. 34

Sir J. Shackburgh.

Perm. U.S. of S.

Partly U.S. of S.

Secretary of State.

DRAFT.

H.M.A. MOORE, Esq., C.M.G.

THE SECRETARIAT,
NAIROBI.

FURTHER ACTION.

23022/34 KENYA.

23 APR
1934

DOWLING STREET.

27 APRIL, 1934.

Dear Moore,

Please look at the correspondence ending with the Governor's despatch No. 118 of the 7th of March about the Dentists and their position under the Licensing Ordinance. We are answering the despatch officially as far as most of it is concerned.

I may perhaps add that the Secretary of the Dental Association and one of their Kenya dentists named Thomas, called here on one or two occasions and saw Dr. Stanton and myself. They appeared quite reasonable and I advised Thomas to re-open the matter on his return to Kenya. This is all being explained in our despatch.

C. O.

- Mr.
- Mr.
- Mr.
- Mr. Parkinson.
- Mr. Tomlinson.
- Sir C. Bottomley.
- Sir J. Shuckburgh.
- Permt. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

DRAFT.

FURTHER ACTION.

complain about and what, in fact, is not considered to be the case in Kenya, so it hardly seems suitable to put it into a numbered despatch and I do not want to start a series of confidential despatches on the subject, but I think you ought to know the opinion held here.

You have telegraphed to us recently to ask about Feild-Jones. The position is that he is very ill and as far as we can see, not likely to return, but we cannot be quite sure about it yet and the Consulting Physician is just recommending him for a further three months' extension. If he ^{does} go back it will be quite easy to reduce the number of cadets to be selected by one.

Yours sincerely,

(Signed) W. C. BOTTOMLEY.

The purpose of this letter is to deal with paragraphs 2, and 3 ^{and 4} of the Governor's despatch. Our legal people here are of opinion that it is very doubtful whether a registered medical practitioner is really entitled to practice dentistry in Kenya under the Ordinance as it stands.

Now our attitude has always been that we should ^{mainly} ~~mainly~~ assimilate the law and practice in Colonies as nearly as possible to that in force in this country, and there is no doubt whatever that dental practice by medical men is fully legal here. Indeed, it would be hard to see how it can be otherwise, because dentistry is simply a highly specialised branch of surgery and the more involved dental operations slide into surgical operations very easily. We, therefore, think here that no steps should be taken to question the legality of the performance of dentistry by a medical man and, if necessary, the ~~Medical Practitioners~~ ^{and} Dentists' Ordinance may have to be amended to make this clear. That being ⁱⁿ so, then we think it very advisable to do anything which would raise the question. If the right of a medical man to practice dentistry is called in question we shall have the whole of the B.M.A. on our backs at once. This, of course, involves recognising as correct what the dentists ^{complain}

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KENYA.
No. 118

GOVERNMENT HOUSE,
NAIROBI,
KENYA.

RECEIVED
1 MAR 1934
C. O. REGY

7th March, 1934.

Amund (12)
No 5

Sir,

I have the honour to refer to your despatch No. 67 of the 30th January, enclosing copies of correspondence with the British Dental Association on the subject of the payment of fees by Dental Surgeons under the Licensing Ordinance, 1933.

2. The Association represent in their letter of the 16th January that there are, in fact, many medical practitioners actually practising dentistry in Kenya by virtue of a medical qualification, without paying the licence fee required of dental surgeons.

3. It may be convenient to consider first whether a person registered as a medical practitioner under the Medical Practitioners and Dentists Ordinance, Chapter 119 of the Revised Edition, is entitled under the law to practise dentistry. Section 11 of the Ordinance provides that a medical practitioner shall be entitled to practise medicine, surgery and midwifery, and that a dentist shall be entitled to practise dentistry. A dentist is not entitled to practise medicine unless he is registered as a medical practitioner, nor, it is submitted, is a medical practitioner who is not registered as a dentist entitled to ...

THE RIGHT HONOURABLE
MAJOR SIR PHILIP GUNLFFE-LISTER, P.C., G.B.E., M.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W.1.

to practise dentistry, except in so far as any dental work he may do is necessary in the course of medical treatment. 'Dentistry' is not defined, but it would obviously be absurd to suggest that a doctor or any other person who occasionally performs extractions is practising dentistry.

4. The suggestion that many medical practitioners practise dentistry in this Colony by virtue of their medical qualification is, in the view of the Director of Medical and Sanitary Services, untrue. Possibly a few medical practitioners in remote places, where there is no dentist, may perform extractions in emergency. A few may perform extractions for native or Indian patients who could not afford to or would not go to a dentist. There is no evidence that any medical practitioners are either unwittingly or deliberately contravening the law, as interpreted in paragraph 3 of this despatch.

5. The dentists complain of unfair discrimination between themselves and medical practitioners.

There are two alternative methods of removing this discrimination, (a) by exempting the dentists, and (b) by rendering the medical practitioners liable to the fee. The adoption of the former alternative could only be justified, if the discrimination was in fact unfair, and this view the Government is unable to accept. The second alternative was abandoned by the Select Committee on the Bill, not in any way because medical practitioners were unwilling to pay, but because the Committee could find no practicable method of differentiating between the two classes of practitioners that ...

- 3 -

that may be termed respectively farm and town doctors. If the dentists are able to suggest a practicable formula for removing by the second method the discrimination of which they complain, the Government would be glad to consider it. The Ordinance is, as you are aware, a revenue measure.

I have the honour to be,

Sir,

Your most obedient, humble servant,

J. M. Wilson

GOVERNOR'S DEPUTY.

GOVERNMENT NOTICE NO. 115

THE LICENSING ORDINANCE, 1933.

IN EXERCISE of the powers conferred upon him by section 6 (2) of the Licensing Ordinance, 1933, His Excellency the Governor has been pleased to reduce the fee payable under the Ordinance by persons whose sole business is the purchase of produce from natives for resale within the Colony from the sum of Sh. 300 per annum to the sum of Sh. 90 per annum.

By Command of His Excellency the Governor.

Nairobi.

27th January, 1934.

H. M. M. MOORE,
Colonial Secretary.

GOVERNMENT NOTICE NO. 116

THE LICENSING ORDINANCE, 1933

AND

THE INTERPRETATION AND GENERAL CLAUSES
ORDINANCE

(Chapter 1 of the Revised Edition, section 13).

DELEGATION OF POWERS.

IN EXERCISE of the powers conferred upon him by section 13 of the Interpretation and General Clauses Ordinance (Chapter 1 of the Revised Edition), and all other powers thereunto enabling him, His Excellency the Governor has been pleased to depute—

(a) representatives of the Treasurer duly authorized under section 9 of the Licensing Ordinance, 1933—

(i) to exercise the powers conferred upon the Governor by section 6 (2) and section 7 (5) of the Licensing Ordinance, 1933, in respect of licences to retail traders in cases where the value of goods on hand for the year preceding the date of taking out the licence has not exceeded £150 at any time and the business to be licensed is not a subsidiary establishment of a firm licensed under section 7 (1) (a) of the Licensing Ordinance, 1933;

(ii) to exercise the powers conferred upon the Governor by section 6 (2) of the Licensing Ordinance, 1933, in respect of the further re-

duction of fees payable by persons who purchase produce from natives for resale within the Colony and whose liability to payment of a fee under the Licensing Ordinance, 1933, already been reduced by the Governor from the sum of Sh. 300 per annum to the sum of Sh. 30 per annum under Government Notice No. 115 of 27th January, 1934.

- (b) the person for the time being holding the office of Officer in Charge of the Northern Frontier District to exercise in his district the powers conferred upon the Governor under section 6 (2) of the Licensing Ordinance, 1933;
- (c) the Licensing Commissioners appointed under section 15 of the Licensing Ordinance, 1933—
- (i) to exercise the powers conferred upon the Governor by section 6 (2) of the Licensing Ordinance, 1933, in respect of any business or person requiring to be licensed under section 7 (1) (p) of the Licensing Ordinance, 1933, in any part of the Colony and Protectorate except the Northern Frontier District;
 - (ii) to exercise the powers conferred upon the Governor by section 6 (2) of the Licensing Ordinance, 1933, in respect of businesses requiring to be licensed as subsidiary establishments of firms whose principal place of business is licensed to carry on the business of a wholesale trader under section 7 (1) (a) of the Licensing Ordinance, 1933, in cases where the value of goods on hand at such subsidiary establishment for the year preceding the date of taking out the licence has not exceeded £150 at any one time;
 - (iii) to exercise the powers conferred upon the Governor by section 6 (2) of the Licensing Ordinance, 1933, in respect of the carrying on of business at trade exhibitions by licensees under the Ordinance on premises not included in their licences.

By Command of His Excellency the Governor

Nairobi,

27th January, 1934.

H. M. M. MOORE,

Colonial Secretary.

THE LICENSING ORDINANCE, 1933.

NOTICE.

IN EXERCISE of the powers conferred upon him by section 6 (2) of the Licensing Ordinance, 1933, His Excellency the Governor has been pleased to reduce the fee payable by any business, profession or person by the amount of the fee to which such business, profession or person is liable under—

- (a) the Stock Traders Licence Ordinance (Chapter 59 of the Revised Edition) as amended by the Stock Traders Licence (Amendment) Ordinance, 1929, and the Stock Traders Licence (Amendment) Ordinance, 1932;
- (b) the Sales by Auction Ordinance (Chapter 103 of the Revised Edition);
- (c) paragraph (3) of Part I of the Schedule to the Traffic Ordinance, 1928, as amended by the Traffic (Amendment) Ordinance, 1930;
- (d) the Brokers Ordinance, 1930, as amended by the Brokers (Amendment) Ordinance, 1933;
- (e) section 4 (5) of the Coffee Industry Ordinance, 1932;
- (f) the Trading in Unwrought Precious Metals Ordinance, 1933.

Provided that the receipt for any such fee is produced to the officer issuing the licence under the Licensing Ordinance, 1933.

The licence fees which may be set off against fees payable under the Licensing Ordinance, 1933, are thus—

	<i>Per annum</i>	<i>Per half year</i>
	Sh.	Sh.
In respect of—		
(a) a stock trader's licence	100	50
(b) an auctioneer's licence	100	50
an auctioneer's licence limited to Arabs and natives	50	25
		<i>Per annum</i>
		Sh.
(c) licences for public service vehicles		
(i) in the case of a taxicab or motor omnibus, for each passenger which the vehicle is licensed to carry		10
(ii) in the case of any other public service vehicle, for each passenger which the vehicle is licensed to carry		5
(d) an ordinary broker's licence		40
an official broker's licence		40
a money changer's licence		100
a goldsmith's or silversmith's licence		100
(In the case of licences issued after the 30th day of June in any year half of the above-mentioned fees.)		
(e) a coffee dealer's licence		200
(f) a licence to trade in unwrought precious metal		100
(In the case of a licence issued after the end of June, Sh. 60.)		

By Command of His Excellency the Governor.

Nairobi,

8th December, 1933.

H. M. M. MOORE,

Colonial Secretary

the Ordinance in force in Kenya does in fact prohibit a ^{registered} medical practitioner from ^{undertaking} dental work. Dentistry is not defined in the Ordinance, and it would I think be inadvisable to prevent a medical man from practicing it if he chose to do so.

Similar provisions to those of section 18 of the Kenya Ordinance exist in other Colonies and I understand that no objection has been raised to the practice of dentistry by registered medical practitioners.

(Signed) P. W. ...
(for the Secretary of State)

PER
4

C. O.

- Mr. Macpherson. 24/1
- Mr. Cliffe 24/1
- Mr. Ford 24/28
- Mr. Parkinson.
- Mr. Tomlinson.
- Sir C. Bottomley.
- Sir J. Shackburgh
- Perms, U.S. of S.
- Parly, U.S. of S.
- Secretary of State.

25 JAN
D 26

DOWNING STREET,

26 January, 1934.

Sir,

DRAFT.
THE DENTAL SECRETARY,
THE BRITISH DENTAL ASSOCIATION.

(33 on 3023(A)
33 Kenya)

I am, etc., to refer to your letter of the 10th ^{1/} January on the subject of fees payable under the Kenya Licensing Ordinance 1933 by Dental practitioners in the Colony, and to inform you that, in commenting on the representations contained in your letter of the 1st of November, the Governor of Kenya states that it would appear that no objection would be offered by ^{members of} the dental profession ^(in the Colony) to the payment of the prescribed fees if it were not for the fact that medical practitioners are exempted therefrom.

2 drafts
FURTHER ACTION.

2. The Governor explains that the medical profession in Kenya did not in fact object to paying a fee, but merely requested that exemption

should

should be granted to those members of the profession who had retired but ~~was~~ continued to practice in a small way, not in order to make a living, but chiefly for the convenience of their neighbours in outlying districts. The number of such practitioners was considerable and it was decided that the only practicable method of dealing with the request, which was considered reasonable, was to exempt all medical practitioners.

3. It is unlikely that there ~~is~~ ^{are} any considerable number of dental surgeons who practice ~~in~~ ^{to} a small degree after retirement, but any such practitioners could, it is pointed out, apply for exemption under Section 6(2) of the Ordinance. If the number of such dental surgeons were large, and ~~if it would be~~ ^{was considered to be}

against

C. O.

- Mr.
- Mr.
- Mr.
- Mr. Parkinson.
- Mr. Tomlinson.
- Sir C. Bottomley.
- Sir J. Shuckburgh.
- Parlt. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

DRAFT

against public interest that they should cease from ~~own~~ practice, the case for exempting members of the dental profession from the provisions of the Ordinance would ^{be} as strong as that for exempting medical practitioners. So far as is known ~~these~~ ^{known} circumstances do not at present exist.

4. I am to add that the ~~has been forwarded to~~ ^{a copy of your letter has} comments of the Governor of Kenya ^{on his observations} are being sought on the representations contained in the second paragraph of your letter under acknowledgment.

I am, etc.,

(Signed) J. E. W. FLOOD

FURTHER ACTION

C. O.

23022/34 ^{cont.}
Kenya.

3⁶⁴

Mr. Flood 19-1

Mr.

Mr.

Mr. Parkinson

Mr. Tomlinson

Sir C. Bottomley

Sir J. Shackleton

Herms. U.S. of S.

Parly. U.S. of S.

Secretary of State

19 JAN 1934

Sir

I am so to with the recd. of

your letter of the 16th of Jan^y & to
state that a despatch has just been
received from the Governor of Kenya.
A further communication will be
addressed to you at an early date.

DRAFT.

The Dental Secretary

British Dental Association

(Signed) J. E. W. FLOOD

(attach to pp. later.)

FURTHER ACTION.

15
2

British Dental Association.

Patron: HIS MAJESTY THE KING

Please address your reply to
"THE DENTAL SECRETARY"

23, RUSSELL SQUARE,
LONDON, W.C.1.

Telephone: 5752-5753
Museum 1418

RECEIVED
JAN 16 1934

16th January, 1934.

ACKD. BY P.C.

P.C.

The Under Secretary of State,
Colonial Office,
London, S.W. 1.

Chand 3

Sir,

No 34

3023/11/33

I am directed by my Council to refer to your communication of 14th November, reference 3023/A/33 and to ask that you will be good enough to indicate what action, if any, has attended the forwarding by your Department of our representations to the Acting Governor of Kenya for his consideration.

I am to add that we have received strong protests from the profession in Kenya, and that one of our members at present on leave has informed me that the dental profession not only complains regarding the unfair discrimination which compels them to pay an annual licensing fee, although practising under precisely the same Ordinance as medical practitioners, but that there are, in fact, many medical practitioners actually practising dentistry by virtue of their medical qualification, and without being under the necessity to pay any licensing fee.

My Council regards this matter as one of great urgency, and trusts that no effort may be spared to remove the hardship.

Yours faithfully,

Dental Secretary.

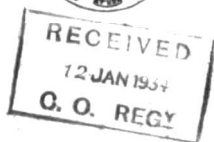
W/ry to Kenya (4)

KENYA.

No 697



GOVERNMENT HOUSE,
NAIROBI,
KENYA.



22nd December, 1933.

Sir,

transd (4) No 4 in subje

I have the honour to refer to paragraph 2 of your despatch No. 857 of the 14th November, 1933, in which you ask for my observations on representations made to you by the British Dental Association to the effect that under the provisions of the Licensing Ordinance, 1933, dentists are liable to a licence fee of £15 per annum, whereas medical practitioners are exempted.

2. The Bill as introduced into the Legislative Council did not exempt medical practitioners, who were included in the definition of "profession" in Clause 2. Clause 4 (7) of the Bill provided that a person shall not be deemed to be practising as a medical practitioner merely because he resides on a farm and attends such people in the neighbouring farms as may require his services. On the recommendation of the Select Committee to whom the Bill was referred the words 'medical practitioner' in Clause 2 and the whole of Clause 4 (7) were deleted, with the result that medical practitioners were entirely exempted.

3. The Select Committee received representations from the Kenya Branch of the British Medical Association that certain groups of medical practitioners should be exempted. It was not represented that

this

THE RIGHT HONOURABLE
MAJOR SIR PHILIP GUNLIFFE-LISTER, P.C., G.B.E., M.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W.1.

- 2 -

this should apply to all medical practitioners. The request referred to the considerable group of retired practitioners and consultants who, although they may practise a little, do so chiefly for the convenience of their neighbours in outlying districts and derive only a very small income from practice. It was felt that the imposition of a licence fee would drive many of these men out of practice, since, even though they could apply for exemption "in the interests of the community" under Clause 6(2), it was thought that the majority might not do so and that the community generally would be in danger of losing a useful service.

4. It is understood that numerous suggestions for meeting this difficulty were made to the Select Committee, e.g. that there should be general exemption when the income from practice fell below a certain figure, but on account of legal and other difficulties the Committee considered these suggestions to be impracticable and therefore exempted all medical practitioners.

5. In September, after the Ordinance had been enacted, a petition from the dentists practising in Kenya was received through Dr. Sequeira, the President of the Kenya Branch of the British Medical Association, a copy of whose letter, with a copy of the petition, is enclosed. Dr. Sequeira was informed in November that, as then advised, the Government did not propose to take any steps in the matter.

6. As regards the contention that registration under the Medical Practitioners and Dentists Ordinance, Chapter 119 of the Revised Edition, places medical practitioners and dentists on an equal footing, which

should

should be recognised in other legislation, it should be explained that registration as a dentist under that Ordinance does not authorise the dentist to practise general medicine and that registration as a medical practitioner does not authorise the medical practitioner to practise dentistry. I am advised that the situation is thus different from that which obtains in England, where a medical practitioner may, as such, practise dentistry. The British Dental Association do not appear to recognise in their letter that this discrimination exists in this Colony, apart from any question of the Licensing Ordinance, 1933.

7. It appears that the dentists would have no objection to the provisions of the Licensing Ordinance, if medical practitioners were not exempted. It should, I suggest, be explained to the British Dental Association that the medical practitioners did not object to paying the licence fee. They merely requested that those of them who did not make a living out of medicine should be exempted. As this class was large, the Select Committee recommended the exemption of all as the only practicable method of meeting the request. Any retired dental surgeons who are in practice in only a very small way can apply for exemption under section 6(2) of the Ordinance. If the number of such dental surgeons were large and it would be against the public interest that they should go out of practice, then the case for excluding dentists from the Ordinance

would

would be as strong as that for excluding medical practitioners. So far as is known, these circumstances do not exist.

I have the honour to be,

Sir,

Your most obedient, humble servant,



BRIGADIER GENERAL.
GOVERNOR.

COPY.

N'DERNA,
P.O. MAKUYU.

PUNDA MILIA STATION

30 September, 1933.

To the HON. THE TREASURER,
KENYA COLONY AND PROTECTORATE, Nairobi.

Dear Sir,

I have the honour to forward herewith a Petition from the Dentists practising in Kenya re the Professional Licences Act.

I have replied to Mr. SPENCER PALMER, who sent the Petition to me, that while the Kenya Branch of the British Medical Association has always been desirous of giving assistance to the dental profession in the Colony, the Council regretted that they were unable to assist in the matter of licences.

I explained that when our delegates had the honour of appearing before the Select Committee the only question they were instructed to raise was the exemption of certain groups of medical practitioners, and that the question of the exemption of all "Medical practitioners" did not arise. Similarly you will remember that the words "dentist" or "dental surgeon" were not mentioned.

As the Petitioners raise issues on certain Ordinances I deemed it right that the petition should come before you, and if I am in error, I trust you will accept my apologies for intruding at what I know must be a very busy time.

I am, Dear Sir,

Faithfully yours,

Sd. James H. Sequeira.

President, Kenya Branch, British Medical Association.

COPY.

To the President,
Kenya Branch,
BRITISH MEDICAL ASSOCIATION.

Sir,

We, the undersigned Dental Surgeons practising in Kenya appeal to you to take steps to rectify the Professional Licences Bill, passed by the Legislative Council at the recent Emergency Session, whereby an unprecedented discrimination is made between Dental Surgeons and those practising all other branches of Surgery and Medicine: the former being made liable to pay an annual professional tax, the latter without exception being exempted.

We submit that no such discrimination is possible in view of the "Medical Practitioners and Dentists" Ordinance, Kenya (No.26 of 1910 and No.23 of 1922) which places Medical practitioners and Dental Surgeons on an equal footing. Their titles to practise are granted under this one and the same Ordinance following the U.K. Act of 1878 which gave Dental Surgeons equal status and equal rights and privileges with practitioners of all other branches of Surgery and Medicine, and placed them under the control and protection of the General Medical Council.

We therefore petition you, Sir, as President of the Kenya Branch of the British Medical Association which admittedly does concern itself with the interests of Dental Surgeons, and has taken action in the past to protect those interests, and being the only organisation in Kenya for this purpose, to lay our case for an amendment of the Professional Licences Bill 1933 before the proper authorities, and to use your influence towards securing such amendment.