

1938

Kenya

No. 38342 (Part I)

SUBJECT. C0533/499

Transport Licensing Legislation

Previous

1937 Bill

Subsequent

Part II

... of ...
... of ... for which it appears that the
... before the receipt of their observations. ... of ...
... to the ... of ... already for ...

2 ...

The ... were ...
...

No 1 asks that No 11 on -/37 may be considered in
spite of the fact that the Bill has been passed.
In view of No 12 on -/37, which informs IO that
Kernya has been asked for obs'ns on No 11, this
may be ? partly unanswered

No 2 Paras 1a 2 The amendments proposed by the
Leg. Co. have all been embodied in the
Bill. They have been considered in detail
on the -/37 file (see minute of 8/11/38 thereon), and
the conclusion reached that, with the exception of
one point, they required no comment from the
Dept's point of view

Para 3 states that an "exclusive licence" will
be granted only after reference to the S.F.S., as
requested in 2 on -/37

Paras 4 & 5 Indian opposition. A further
communication is promised, and an answer to
No 13 on -/37 is to be expected in due course.

Para 6 Provision for expenditure under the
Ordinance has been transferred to the legal Dept.
Head, and the estimates of revenue & expenditure
reduced to £1,000 This ? requires no
comment.

? To Mr Dale for legal obs'ns on the
Ordinance in general & for comment of X/ on
minute of 8/11/38 on -/37, & how view for
comment of the "Indian opposition" question

Clotworthy 2nd

I had, at first, thought that we need not go into the Indian aspects of this question until we get a reply to No 13 or -137. The situation in this respect has however been altered by a proposal from Tanganyika (No 1 on 42267/1/38) not to enforce new corresponding legislation for the control of the flow of traffic on Lake Victoria, but to meet a new Ordinance designed mainly to prevent the flow from being the opportunity afforded by the differences in the railway rates of the U.P. & the T.T. Rlys. to divert traffic from the latter. This will naturally involve corresponding action by Kenya & it is unsatisfactory that ~~the~~ ^{the} Govt. ~~shall~~ ^{be} ~~consequently~~ ^{consequently} ~~direct~~ ^{direct} with the S. of T. on its own ~~own~~ ^{own}, without first consulting the other Govt. concerned, & referring the S. of T. of the result of such consultation.

Subject therefore to any legal obstacles (& in particular on Sec 30(1) - v. minutes on -137, & v. Mr. Costly-White (as referred), & s.d. be included, when sanctioning the Ord., to refer to No 1 on 42267/1/38, we say that it is assumed that the Govt. measures to be adopted to deal with the road traffic on the Lake has now been discussed

with the Govt. of Tanganyika, & will that 3 when replying to No 13 or -137, the S. of T. may be informed of the results of such consultation.

J.P. Bann
14/2

I have suggested in a minute which I have put on 42267/1/38 below that the Tanganyika Government should be told that we assume they will concert action with Kenya and Uganda. Clearly this is essential in view of Tanganyika's change of plan.

B. B. M.

16/2

With regard to s. 30 (1) of the Ord. (that concerned) the concluding provision of s. 30 (1), having regard to the limited nature of this Ordinance, I incline the point to be taken, and he has drawn my attention to s. 25 of the Indian Evidence Act, which is applicable in Kenya, and provides that no confession by an accused person as to the commission of an offence is admissible in evidence against him.

I think however we should comment on the fact that s. 25 which gives any police officer or other authorized person ^{power} to stop a vehicle. This power should clearly be limited to a police constable in uniform (as it is by s. 20(3) of the Road Traffic Act 1930) since otherwise the driver of the vehicle cannot

tell whether it is an authorized person or
a bandit who is stopping him. S. 48(2) of
the Traffic Ord. 1928, does not apparently make
it an offence for a bandit

I have been wondering why the provisions of
s. 12, which prohibits driving vehicles, are not
extended to passenger vehicles, as they can be
used for the Transport Ord. (It may be that
having regard to the wording of s. 14(1) combined
with s. 11(1) ("grant a license") driving passenger
vehicles are sufficient, provided. I think however
we should make them final, and also the
addition of sub s. (3) to s. 12. This seems to me
completely to have deprived s. 12 of its greater force
at the end of the year the owners of driving
vehicles will be thrown back on s. 11. However,
as a matter of driving, s. 15 (dealing with vehicle
transfer licenses) should have been included in
s. 12(3) and s. 15 should be made subject to s. 12.

(b) ad.

17.2

3. India Office (P. & J. 678/38)

15.2.38.

The copy of further telegram received from Govt. of India
and asks that consideration be given to their request
contained therein.

This file has been received from Mr. Board
in view that his letter may be dealt with.

Under Sec. 3(1) the Licensing Board
is to consist of the attorney Genl. & 4 other
persons to be nominated by the Govt. in Council.
In the course of the debate, the Indian unofficial
members of the Leg. Co. pressed for the
app't of an Indian member of the Board.
I in my reply to the debate on Mr. Harjain
said that Govt. was preparing to follow
Sir O. Naini's recommendation as to the
constitution of the Board; that it was
time to complain when it was seen
when it was prepared to put on the Board.

Sir O. Naini's recommendation was
as follows (para 128 of his report):—
One member with legal qualifications.
Two members commanding the confidence
of the European & Indian communities
respectively.

One official member to vote the interests
of the native population.
One member with a general economic
outlook, such as a banker.

~~_____~~
In view of the fact that a large
proportion of the bus & long bus
is in the hands of Indians, it seems
to me that the Indians have quite
substantial grounds for their request that
the Licensing Authority should include a Indian
I now submit a copy to Mr. Board.

covering No 3 in this file & No 1 on
42267/1/38 T.T.

J. J. Pascoe

25/2

J. J. Pascoe
26/1/38

4 Extract from letter dated 19.3.38, from Sir Robert Brooke-Pitman
to the Secretary

5 Kenya 126 A (No 1 on 42267/1/38 T.T. & Serial 2 on this) 25/2
(2 amended) 25/2

6 For Kenya 25 - - - 29.1.38

Formulates observations on points raised by India Office (L 1004
on 30.12/37) & sends copies of its responses with the final of
letter on the subject.

7 Extract from letter from India Office dated 20.1.38
No 7? may be put by

No 6 gives reasoned answer to the points
raised by IO in (11) on -/37, & incidentally
covers the point raised in (3) hereon.
There does not seem to be anything in (6)
which cannot suitably be sent to the
IO, so I send copy & sends to IO in a
short draft acknowledging (3) and referring to
(12) on -/37

No 2 has not yet been ack'd, but perhaps it
would be best to delay putting Mr Dalrymple's
points to Kenya until we hear what
action is intended to cope with the
situation over the Dhows created by T.T.'s
action in suspending proposals not to
enforce the corresponding provisions over Dhows
in that dependency. If, as is possible,

amending legislation is required in Kenya in
this connexion, it will be convenient to raise
the question of their amendments then. We
shall hear about this in the reply to (5)

Clarke White 35

Drafts submitted for comment after speaking
with Mr Pascoe.

Clarke White 37

Draft to IO amended, in consultation with
Mr Pascoe, in view of the enactment of
fresh legislation in the T.T. - see No 6
on 42267/1/38 attached.

A note is also attached summarising the
correspondence with the India Office over
the Kenya Ordinance.

Clarke White 44

9 T.T. tel. 64. 28.3.38
Provisions of Inland Water Transport Bill

10 T.T. tel. 52. cons. 7.4.38

11 T.T. tel. 74. 13.4.38

Bill published & assented to on 6.4.38
but will not be brought into operation until
necessary rules have been made in Council
Dhows Owners Assoc. Mombasa. tel. 13.4.38.
Raided against the Order

13 gov. Kenya 205. 7.4.38
That proposed to alter line of action
already arranged in spite of change of
attitude of I.T. Govt.

14 Extract from Supplement to Kenya Gazette No 18 of 29.3.38.

orig
9-12 reprod.
on
42267/1/38 T.T.

This despatch (No.13) affords further evidence of a regrettable lack of liaison between the Governments of Kenya and Tanganyika on a matter on which, as the Governor observes, co-operation between the East African Dependencies is very desirable.

On receipt of the Governor's earlier despatch (No.6) a draft letter to the India Office was prepared, but it has been necessary to hold it up and to alter it from time to time in view of the correspondence proceeding with Tanganyika on 42267/1/38. For convenience of reference, I have now had copies of the later correspondence registered on this file.

In their letter of the 31st of December, the India Office passed on the following requests from the Government of India:-

(No 11 or -137)

(a) Composition of the Transport Licensing Board. The Government of India asked that the Ordinance should be amended to provide that the Transport Licensing Board should include one member commanding the confidence of the Indian community; (and, in the course of the debate on the Bill (enclosure in No.2) it was made clear that the Indians in Kenya interpreted this as meaning that there should actually be an Indian member of the Board). Failing this, the Government of India urged that a public declaration should be made to the effect that the Board would contain at least one Indian member. In paragraphs 3 and 4 of No.6 the Governor has reported that an Indian member of the Board has been appointed, and that he recognises that representation of Indian interests

interests would normally be secured by the appointment of an Indian member. On the other hand, the Governor is unwilling to admit the principle that Indian interests cannot be adequately represented by a person of another race, and he is not prepared to agree to the Ordinance being amended in the sense desired by the Government of India.

On this aspect of the matter, the practical requirements of the case seem to have been met by the appointment of an Indian member of the Board, and the Governor's recognition that the Board should normally include an Indian member, and I think that the Government of India, and the Indian community in Kenya, ought to be satisfied with this:-

(b) Exclusive transport licences. The Government of India suggest that no such exclusive licence should be issued until the proposal to grant it had been debated in the Legislative Council. In paragraph 7 of No.6 the Governor has pointed out that provision for the grant of exclusive transport licences already exists in two other Ordinances of the Colony, and that in neither case is there provision requiring the approval of the Legislative Council to the grant of such a licence. On this point the Governor has already been asked to ensure that no such licences are granted without prior reference to the Secretary of State, and I think this ought to be sufficient for the Government of India.

(c) The licensing of dhows. This is the most contentious and troublesome aspect of the matter; and is the aspect which directly affects Indian interests, not only in Kenya, but also in Tanganyika.

In No.11 on 1/37, the Government of India pointed out that Sir Osborne Mance did not consider it necessary that restrictions should be introduced in the present number or operation of dhows, and on the strength of this they asked that the provisions relating to the licensing of dhows should be excluded from the Ordinance. In paragraph 6 of No.6, however, the Governor has pointed out that the licensing of dhows was implicit in Sir Osborne Mance's report and in paragraph 5 he has observed that the licensing of dhows does not necessarily involve any restriction on their present numbers. These provisions of the Ordinance will, however, be available to prevent an uneconomic increase in the number of vessels on the Lake in competition not only with the railway steamers, but also with the existing dhows. To this extent, therefore, the provisions for the licensing of dhows will afford a safeguard to the existing Indian interests in this traffic, and I see no reason why these provisions should be repealed.

It is, however, difficult for the Secretary of State, at this stage, to take a definite line on this matter, in view of the fact that on 42267/1/38 there is a memorial from the Tanganyika Dhow Owners' Association (which has been repeated, in No.7 on that file, in relation to the recently enacted Tanganyika Ordinance) of which consideration has been deferred pending the receipt of a further despatch from the Governor of Tanganyika. In case, therefore, it is thought desirable to deal with the

the other representations of the Government of India, I have amended the draft letter to the India Office by explaining the present position in regard to the correspondence relating to the licensing of dhows. My own view, however, is that it would be very much better to defer writing to the India Office at all until the further despatch from the Governor of Tanganyika has been received and considered, so that we shall be in a position to deal with the matter as a whole, and I accordingly suggest that the letter to the India Office should not be sent at this stage.

At the same time, I think that the draft despatch to Kenya, suggesting various other amendments in the Ordinance, should now issue, in view of the fact that, as reported in No.13, the relevant parts of the Ordinance have already been brought into operation.

When either now or in the future, we write to the I.O. to give the Kenya views on the representations made ~~XXXXXX~~ in No. 11 on (13), it wd. I think be quite suitable to send them ~~in~~ a copy of No. 6. No. 13 is however on a different footing, & I do not think we shd. pass on this evidence of an absence of reasonable liaison between Kenya & I.T.

J.P. Bacon
19/4

*I agree with "A" above.
Send off the despatch and bring*

with few copies for letters
to the I.O. when the draft
promised in (6) on
42267/1/38 T.T. has
been received.

Noted on
42267/1/38

A. J. Maw
20.4

Noted
E.G. Maw
6.5.38

Kenya 239. 2 copies. A. 26 APR 1938

16 Col. Sec. 3pm (on 38005/6/38) 22.4.38.
No 12 copies of final draft 245.

(Spares to library)

These rules are of an administrative nature
and do not appear to call for comment.

? Put by Clarke, while 7/4

J. J. Pasumi
23/4
ad. maw

17. Go Tanganyika — 222 — 23/4/38
Outlines considerations which have guided
legislation in T.T. Transport

Original at No 4
on 42267/38
Tanganyika

18 Joint East African Board 2.5.38
states that complaints have been received from
Tanganyika Chamber of Commerce & Show Owners
Association at Dar es Salaam regarding hardships
imposed by new transport regulations in Kenya, Uganda
& Tanganyika suggests that the effect of the Rules
ought to be considered

Copy of
Final
draft
42267/38
attached

Copy
attached

The T.T. draft referred to in the above
Minute Opposite is now in — and the duplicate
is attached as No 17 above for ease of
reference.

Unfortunately the T.T. draft confines itself to
explaining why the second T.T. Ordinance
(that at No 8 on 42267/1/38) was necessary, and
does not deal with the question of the Show
and the complaints of the Show Owners Association.
We are therefore not in any better position as
regards writing to the I.O. than we were
when Mr Parkin's minute of 19/4 above was
written. It will be best to wait
till the Show question is dealt with before
writing to I.O.

No 18 refers to the Memo from the Show
Owners Association registered at 101 on
42267/1/38 Tanganyika. It will perhaps
therefore be simplest to deal with No 18
on the duplicate copy registered on the T.T. file
But until Tanganyika sends in its views about
the Show Owners' complaints it will presumably
be impossible to give more than an
interim reply.

Clarke, while 7/5

enquires whether the obverse of the Kenya Govt have been read on points raised in No 11 on 1937 file & No 3 Bureau.

- 20 of Col Sec Spn - 16.5.38
- No 12 copies of Inland Water Transport (licensing) Regns 1938 (spares to library)

Mr Perkins.

Revised Draft to the S.O. be sent in reply to No 2.

C. J. Tomlinson

The Draft should be forwarded with the 2 Drafts on the Transport legislation for Minister on 42267/1/38 below.

C.J.T.

- 21 Extract from Kenya Gazette of 23.6.38
- 22 Chief Sec Spn - (on 31.10.38) - 4.4.38
The copies of Govt. notice 461 (spares to library)

I regret the delay in sending a new pp. which has been due to presence of more urgent work. I agree with the ^{revised} letter to the S.O. It is, ^{in my opinion,} ~~needed~~ rather a patchy production, but that can hardly be helped. It may seem strange to the S.O. that we are only now passing on to

have a copy of a Kenya Despatch dated 14.8.38, but it is perhaps hardly necessary to explain that his action was deferred pending the return of the cover with T.T. mentioned in para 6.

ADP

J. P. B. 28/7

UJW 29/7

21.7.38

To I.O. (as well as aft.) 9/8/38

To go to Board (on 42267/1/38) 9/8/38

20 Governor 433 28/1/38
Encs copy of Bill to Amend the Transport Licensing Ordinance with obverse thereon and copy of memorandum stating reasons for postponement of coming into force of section 4 of Ordinance until 1st January 1939

The Bill forwarded in this despatch deals with the amendments to the Transport Licensing Ordinance (at No.2) suggested by the

Secretary of State in No.15. The amendments are of a detailed nature only and do not involve ^{the} questions of general policy concerning which correspondence with the India Office has taken place. The T.T. Department may, however, wish to see in connection with the corresponding legislation in Tanganyika.

Clause 2 of the Bill amending Section 3 of the Ordinance. The Governor does not say why it is desired to exclude reference to the Attorney-General. The 'objects and reasons' merely say that it is. However, both the provisions affecting this and the proposed new sub-clause (3A) appear to be unobjectionable.

Clause 3 of the Bill amending Section 12 of the Ordinance. Sub-section (1) is amended as suggested, to extend the application of the section also to passenger vehicles.

In the despatch the Governor says that he does not wish to delete sub-section (3) of the Ordinance as we had suggested because if this were done there would be a "danger that the main objects of the Ordinance would be defeated". What the Governor has in mind is, no doubt, that if sub-section (3) is removed a person who has established a right in the first year can claim it again in an indefinite number of succeeding years, which would deprive the Licensing Authority of control over all ~~such~~ ^{who are already in business} people. On the other hand, if sub-section (3) is retained, existing interests are very little protected. It would appear, however, safe to accept

accept the Governor's assurance that in administering this section care will be taken to respect existing interests, and not to press the point further.

A reference to Section 15 is now made in the new sub-section (3) as suggested ^{in 4/25} ~~by us~~. But ought not reference also to be made to Section 14 now that this Section 12 also covers road service licences?

Clause 4 of the Bill makes Section 15 of the Ordinance subject to Section 12, as suggested ~~by us~~. Should not Section 14 now also be made subject to Section 12?

Paragraph 3 of the despatch. This information had already been received - see No.21.

~~2 to Mr. Dale for legal opinion~~
? Put by till the Ordinance is received

Clough White

16.6.58.

Henry 11/10

Tanganyika on No 20 & 22. Existing section as at this

26 Extract from Tanganyika Gazette No 37 of 29/7/58

20 & 22 Put by no action required

26 is the same as 21

Put by *Clough White 14/8 above*

27 Extract from Kenya Gazette No. 38 of 16/7/58.

Spares to Library

28. L.H. Sec 3pa (on 28/6/38) ————— 4/7/38
Tros 12 c/ Govt Notice No 593. (Vehicles Licensing
Amend. Regns 1938).

29. L.H. Sec 3pa (on 28/6/38) ————— 4/7/38
Tros 12 c/ Govt Notice No 594 (Inland
Water Transport (Licensing) Amend No 2)
Regns. 1938)

27 has already been received in (25)

28 & 29 give effect to the last sentence

of (21).

? Put by

Clarke White

30/8

h. m. s. g.

31/8/38

at once



30. L.H. Sec 3pa. ————— 20/9/38
(on 28005/38)

Tros 12 copies of Report of Select Committee
on Transport Licensing (Amend.), Ordinance
1937. (Spares to Library)

? await the ordinance (vide
minutes of 16/8 above)

Clarke White

4/9

31. L.H. Sec 3pa ————— 13/9/38

Tros 12 copies of Vehicles Licensing (Amendment
Regulations No 2) 1938. (Spares to Library)

30. Is known.

31. Put by.

h. m. s. g.

29/9/38.

Now see Part II at once





THE SECRETARIAT,
NAIROBI,
KENYA.

WHEN REPLYING
PLEASE QUOTE
Nos D/Leg.Co.26/3/8/56
AND DATE

RECEIVED 13 September, 1958
20 SEP 1958
O. O. REGY

The Chief 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 forward
twelve copies each of the
undermentioned publications:

The Vehicles Licensing (Amendment
No. 2) ^(Regulations) 1958

Standing Finance Committee Report
on Schedule of Additional Provision
No. 2 of 1958

3803/1/58

COLONY AND PROTECTORATE OF KENYA

GOVERNMENT NOTICE No. 652

THE TRANSPORT LICENSING ORDINANCE, 1937
REGULATIONS

IN EXERCISE of the powers conferred upon him by the Transport Licensing Ordinance, 1937, His Excellency the Governor in Council has been pleased to make the following Regulations:—

1. These Regulations may be cited as the Vehicles Licensing (Amendment No. 2) Regulations, 1938, and shall be read as one with the Vehicles Licensing Regulations, 1938, hereinafter referred to as the Principal Regulations.

2. The Third Schedule to the Principal Regulations is hereby amended by deleting therefrom the First Schedule to each of the forms of licences set out therein, and substituting therefor the Schedule set out in Schedule I hereto.

3. The Fourth Schedule to the Principal Regulations is hereby amended by deleting therefrom the form of Identity Certificate and substituting therefor the form set out in Schedule II hereto.

By Command of His Excellency the Governor in Council.

Nairobi.

This 12th day of August, 1938.

R. W. BAKER-BEALL,

Clerk to the Executive Council.

SCHEDULE I

LICENCE NO.

Registration No. of Vehicle	Make	Carrying Capacity	Fee Payable

30

R E P O R T
O F
THE SELECT COMMITTEE OF THE LEGISLATIVE
COUNCIL APPOINTED TO CONSIDER AND
REPORT UPON THE PROVISIONS OF A
BILL TO AMEND THE TRANSPORT
LICENSING ORDINANCE, 1937

Your Excellency,

We, the members of the Select Committee of the Legislative Council appointed to consider and report upon the provisions of the above Bill, have the honour to submit our Report.

We recommend that the Bill be amended in the following respects -

i. That Clause 2 be amended -

(a) by inserting the words "or the person chosen to act as chairman under sub-section (7) of this section" immediately after the word "chairman" which appears in the first line of paragraph (g) thereof; and

(b) by re-lettering paragraphs (h) and (i) as paragraphs (i) and (j) respectively and by inserting the following new paragraph as paragraph (h) -

"(h) by inserting the words "or the person chosen to act as chairman under sub-section (7) of this section" immediately after the word "chairman" which appears in the first line of sub-section (10) thereof;".

2. That Clause 5 be renumbered as Clause 6, and that the following new Clause be inserted as Clause 5 -

"Amendment of the Principal Ordinance.

5. The Principal Ordinance is hereby amended by inserting therein the following new section as section 22A -

'Burden of proof.

22A.(1) Where, upon an application for an A licence, a B licence, a road service licence, or an inland water transport licence, made by an applicant who was on the 15th day of August, 1938 who is at the date of the application, and/ carrying on the business of a carrier of goods and/or passengers for hire or reward, in respect of any vehicle or ship in use upon any road or upon any inland water on or before the 15th day of August, 1938, any person objects to the grant of the licence on any of the following grounds -

- (a) that suitable transport facilities in the district, or between those places, in respect of which the application has been made, are or, if the application were granted, would be, either generally or in respect of any particular type of vehicles, in excess of requirements; or
- (b) that the grant of the licence applied for would be contrary to the public interest; or
- (c) in the case of an application for a licence in respect of a year subsequent to 1939 that the conditions of a licence held by the applicant have not been complied with,

the burden of proving such objection shall lie upon such person.

(2) The provisions of sub-section (1) of this section shall apply to an application for a licence for the year 1939, and to an application for subsequent years by the same applicant for a renewal of his licence in respect of any vehicle or ship referred to in sub-section (1) of this section or in respect of any vehicle or ship which replaces any such vehicle or ship provided it is not of a greater carrying capacity than the carrying capacity of the vehicle or ship which it replaces."

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

SD. T. D. WALLACE	(CHAIRMAN)
SD. J. C. STRONACH	(MEMBER)
SD. S. G. GHEASTE	(MEMBER)
SD. F. S. MODERA	(MEMBER)
SD. H. R. MONTGOMERY	(MEMBER)
SD. R. KASSI	(MEMBER)

Nairobi,

This 15th day of August, 1938

29 16

COLONY AND PROTECTORATE OF KENYA

GOVERNMENT NOTICE No. 594

THE TRANSPORT LICENSING ORDINANCE, 1937

REGULATIONS

IN EXERCISE of the powers conferred upon him by the Transport Licensing Ordinance, 1937, His Excellency the Governor in Council has been pleased to make the following Regulations:—

1. These Regulations may be cited as the Inland Water Transport (Licensing) (Amendment, No. 2) Regulations, 1938, and shall be read as one with the Inland Water Transport (Licensing) Regulations, 1938, hereinafter referred to as the Principal Regulations

2. (1) Sub-Regulation (2) of Regulation 6 of the Principal Regulations is hereby revoked and the following sub-Regulation is substituted therefor:—

“(2) In the case of licences for the year 1939, applications shall be sent to the Licensing Authority so as to reach it on or before the 15th day of August, 1938, in respect of ships in use before that date.”

Sub-Regulation (3) of Regulation 6 of the Principal Regulations is hereby revoked.

By Command of His Excellency the Governor in Council.

Nairobi,

This 15th day of July, 1938.

R. W. BAKER-BEALL,
Clerk to the Executive Council.

COLONY AND PROTECTORATE OF KENYA

GOVERNMENT NOTICE NO. 593

THE TRANSPORT LICENSING ORDINANCE, 1937

REGULATIONS

IN EXERCISE of the powers conferred upon him by the Transport Licensing Ordinance, 1937, His Excellency the Governor in Council has been pleased to make the following Regulations:—

1. These Regulations may be cited as the Vehicles Licensing (Amendment) Regulations, 1938, and shall be read as one with the Vehicles Licensing Regulations, 1938, hereinafter referred to as the Principal Regulations.

2. (1) Sub-Regulation (2) of Regulation 6 of the Principal Regulations is hereby revoked and the following sub-Regulation is substituted therefor:—

“(2) In the case of licences for the year 1939, applications shall be sent to the Licensing Authority so as to reach it on or before the 15th day of August, 1938, in respect of vehicles in use before that date.”

Sub-Regulation (3) of Regulation 6 of the Principal Regulations is hereby revoked.

By Command of His Excellency the Governor in Council

Nairobi

This 15th day of July, 1938.

R. W. BAKER-BEALL,
Clerk to the Executive Council

GOVERNMENT NOTICE No. 575

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

R. W. BAKER BEALL,

Acting Clerk to the Legislative Council.

A Bill to Amend the Transport Licensing Ordinance, 1937

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

1. This Ordinance may be cited as the Transport Licensing (Amendment) Ordinance, 1938, and shall be read as one with the Transport Licensing Ordinance, 1937, hereinafter referred to as the Principal Ordinance.

Short title.

No. 40 of 1937.

2. Section 3 of the Principal Ordinance is hereby amended—

Amendment of section 3 of the Principal Ordinance.

(a) by deleting therefrom the first six lines of sub-section (1) thereof and substituting therefor the following:—

"3. (1) There is hereby established a Transport Licensing Board, which shall be the Licensing Authority for the purposes of this Ordinance, and which shall consist of five persons from time to time appointed by the Governor in Council, who shall also appoint one of such persons to be chairman of the Board."

(b) by deleting therefrom the word "nominated" wherever it appears in sub-sections (2), (3), (4), (5) and (6) thereof;

(c) by substituting the word "appoint" for the word "nominate" which appears in the seventh line of sub-section (1) thereof;

(d) by substituting the word "appointment" for the word "nomination" which appears in the ninth line of sub-section (1) thereof;

(e) by substituting the word "re-appointment" for the word "renomination" which appears in the third line of sub-section (6) thereof;

(3) A nominated member of the Licensing Authority shall become disqualified to retain, and shall *ipso facto* cease to hold, his office as such member if he becomes subject to any of the disabilities set out in the last preceding sub-section or if he is absent from four consecutive meetings of the Licensing Authority without the leave of the Licensing Authority.

(4) The Governor in Council may remove, on the ground of incapacity or misbehaviour, any nominated member of the Licensing Authority from his office.

(5) If a nominated member of the Licensing Authority be removed or vacate his office under this section, or die or resign before the expiry of the period for which he was appointed, his place shall be filled by an appointment by the Governor in Council; and any person appointed to fill the place of any such nominated member shall hold office for the remainder of the period for which such nominated member would otherwise have held office.

(6) The nominated members of the Licensing Authority shall hold office for three years, and each such nominated member shall be eligible for renomination to the Licensing Authority at the expiration of each such period.

(7) In the absence of the Attorney General from any meeting of the Licensing Authority the chairman for such meeting shall be a public officer authorized in writing by the Attorney General.

(8) At all meetings of the Licensing Authority the Attorney General, or the public officer authorized by him under sub-section (7) of this section, together with two other members of the Licensing Authority shall form a quorum.

(9) Meetings of the Licensing Authority shall be held at such times, on such occasions and at such places as the chairman may determine.

(10) The chairman shall have a deliberative vote and in the case of equality of votes shall also have a casting vote. A decision of the majority of the members present at a meeting of the Licensing Authority shall be deemed to be the decision of the Licensing Authority.

(11) The business of the Licensing Authority shall be conducted in such manner as may be prescribed:

(f) by deleting therefrom sub-section (7) thereof and substituting therefor the following:—

“(7) In the event of the absence of the chairman from any meeting of the Licensing Authority the members present shall choose one of their number to act as chairman for that meeting.”;

(g) by substituting the word “chairman” for the words and commas “Attorney General, or the public officer authorized by him under sub-section (7) of this section,” which appear in the second and third lines of sub-section (8) thereof,

(h) by substituting the word “person” for the words “other public officer” which appear in the third line of sub-section (15) thereof; and

(i) by inserting therein as sub-section (3A) the following new sub-section:—

“(3A) Where any member of the Licensing Authority is absent from the Colony for any period in excess of six weeks the Governor in Council may, at the request of the chairman, by notice in the Gazette, appoint a member in substitution for the member who is so absent from the Colony. Any member so appointed shall hold office until the member in whose place he has been appointed returns to the Colony.”

Provided that until such procedure has been prescribed, the Licensing Authority shall conduct its business in such manner as the chairman may determine.

(12) The Governor in Council may appoint such persons to act as officers and servants of the Licensing Authority as he considers requisite to enable it to discharge its duties under this Ordinance.

(13) There shall be paid from the revenues of the Colony to the members of the Licensing Authority and to the officers and servants appointed under sub-section (12) of this section such salaries, remuneration and allowances, if any, as the Governor in Council may determine.

(14) The Licensing Authority may delegate to any individual member of the Licensing Authority, or to any Provincial Commissioner, District Commissioner or any other person, any of its functions under this Ordinance:

Provided that any act done by any such individual member of the Licensing Authority, or by any such Provincial Commissioner, District Commissioner or other person, shall be subject to the prior approval of the chairman.

(15) All licences issued under this Ordinance and all communications from the Licensing Authority shall be under the hand of the chairman or of some other public officer duly authorized by the chairman. A notification of any such authorization shall be published in the Gazette under the hand of the chairman.

(16) The chairman shall submit to the Governor for publication an annual report of the proceedings of the Licensing Authority containing particulars with respect to such matters as the Governor may direct.

(17) No member of the Licensing Authority or any officer thereof shall be personally liable for any act or default done or omitted to be done in good faith in the course of the operations of the Licensing Authority under the provisions of this Ordinance.

Section 12 of the Principal Ordinance which it is proposed to amend:—

12. (1) If, on an application for an A or B licence or an inland water transport licence, made not later than such date as the Governor in Council may by notice in the Gazette appoint, the applicant shows to the satisfaction of the Licens-

Licensing
Authority to
submit annual
report

protection of
existing
interests

3. Section 12 of the Principal Ordinance is hereby amended—

(a) by inserting the comma and words "a road service licence" between the word "licence" and the word "or" which appear in the first line of sub-section (1) thereof;

Amendment of
section 12 of
the Principal
Ordinance.

ing Authority that, during the twelve months immediately preceding such date, he carried on either wholly or mainly the business of a carrier of goods for hire or reward, the Licensing Authority shall, unless it is satisfied that, having regard to the previous character of the applicant as a carrier of goods, he is not a fit person to receive a licence, grant to the applicant a licence of the class applicable to the business carried on by him in respect of the vehicles or ships, as the case may be, regularly employed by him during the said twelve months in such business.

Provided that the Licensing Authority may if it thinks fit permit the applicant to substitute for the said vehicles, or ships, as the case may be, employed by him as aforesaid, vehicles or ships of a similar type or, in the case of an application for an A or B licence, vehicles of an aggregate weight unladen not greater than the aggregate weight unladen of the said vehicles.

(2) Any licence granted pursuant to the provisions of this section shall be subject to the provisions of section 17 of this Ordinance.

(3) The provisions of this section shall apply only to an application for a licence in respect of the first year of the operation of this Ordinance and thereafter the provisions of section 11 of this Ordinance shall apply.

Section 15 of the Principal Ordinance which it is proposed to amend.

15. (1) In the case of a ship every person applying for a licence for the carriage of passengers and/or goods shall submit to the Licensing Authority

- (a) particulars of the type or types of ships to be used;
- (b) particulars of the construction of such ship;
- (c) the total number of crew to be carried in such ship;
- (d) the number of passengers such ship is intended to carry;
- (e) the places between which such ship is intended to be navigated, and the services to be provided thereby.

(2) The Licensing Authority, on an application for an inland water transport licence, shall have full power in its discretion either to grant or refuse the application, but in exercising its discretion shall have regard primarily to the

Procedure on application for inland water transport licence

Discretion of Licensing Authority to grant or refuse inland water transport licence

(b) by inserting the words "or passengers" between the word "goods" and the word "for" which appear in the seventh line of sub-section (1) thereof;

(c) by substituting the words "goods or passengers" for the word "goods" which appears in the tenth line of sub-section (1) thereof; and

(d) by repealing sub-section (3) thereof and substituting therefor the following—

"(3) The provisions of this section shall apply to an application for a licence in respect of the first year of the operation of section 4 of this Ordinance and thereafter the provisions of section 11 and of section 15 of this Ordinance shall apply."

4. Sub-section (2) of section 15 of the Principal Ordinance is hereby amended by inserting therein the words "subject to the provisions of section 12 of this Ordinance" between the word "shall" and the word "have" which appear in the second line thereof.

Amendment of section 15 (2) of the Principal Ordinance.

public interest, to the extent to which the existing transport services serve the routes proposed to be served in the application and to the fares and rates proposed to be charged:

Provided that, where such application is for a licence to carry passengers and/or goods over any route which includes a portion of the inland waters of either the Uganda Protectorate or the Tanganyika Territory or both of these territories, before adjudicating upon such application the Licensing Authority shall take such steps as may appear to it to be necessary to ascertain the views upon such application of any Licensing Authority appointed in either or both of those territories.

Section 30 of the Principal Ordinance which it is proposed to amend:—

30. (1) Any police officer, or any other person duly authorized in writing by the Licensing Authority, may stop any vehicle or ship and/or inspect any vehicle or ship with a view to ascertaining whether or not the provisions of this Ordinance or of any Regulations made thereunder are being complied with, and may demand for inspection the production of any licence, certificate, document or record of any description whatsoever which may, under the provisions of this Ordinance or of any Regulations made thereunder, be required to be carried on such vehicle or ship, and may require the driver or any other person travelling on such vehicle or ship to give such information as such police officer or such authorized person may reasonably request in order to ascertain whether or not the provisions of this Ordinance or Regulations are being complied with.

(2) Any person who obstructs any police officer or duly authorized person in the exercise of the powers conferred on such police officer or such authorized person by this section, or fails to comply with any lawful order given by such police officer or such authorized person or refuses to give any information when requested so to do by such police officer or such authorized person shall be guilty of an offence under this Ordinance.

Powers to stop and inspect vehicles.

5. Section 30 of the Principal Ordinance is hereby amended:— Amendment of section 30 of the Principal Ordinance.

- (a) by substituting the words "Any police officer in uniform" for the words "Any police officer, or any other person duly authorized in writing by the Licensing Authority," which appear in the first and second lines of sub-section (1) thereof;
- (b) by deleting therefrom the words "or such authorized person" which appear in the twelfth and thirteenth lines of sub-section (1) thereof and in the third, fifth and seventh lines of sub-section (2) thereof; and
- (c) by deleting therefrom the words "or duly authorized person" which appear in the first and second lines of sub-section (2) thereof.

OBJECTS AND REASONS

The object of this Bill is to make the following amendments to the Transport Licensing Ordinance, 1937.

Clause 2.—The Principal Ordinance provides that the Attorney General shall be chairman of the Board. It is considered preferable to exclude any reference to the Attorney

General in the Ordinance and to provide that the Governor in Council may appoint any person to be chairman.

The other amendments proposed in this Clause, except paragraph (i) which is designed to make provision for the appointment of a substitute member when a member is temporarily absent from the Colony, are consequential.

Clause 3.—Section 12 of the Principal Ordinance gives certain protection to existing interests so far as vehicles requiring A or B licences and ships requiring Inland Water Transport licences, are concerned, but no such protection is afforded to passenger-carrying vehicles which, under the provisions of the Ordinance, are required to have a road service licence. The Secretary of State is of the opinion that such passenger-carrying vehicles should in this respect be treated on an equal footing with goods-carrying vehicles, and the Transport Licensing Board, to which body the matter was referred, is of the same opinion. This Clause is therefore designed to bring passenger-carrying vehicles within the protection afforded to existing interests by section 12 of the Principal Ordinance. The amendment to section 12 (3) is merely to give effect to the decision to defer the introduction of section 4 of the Ordinance until 1st January, 1939.

Clause 4.—This amendment rectifies a drafting omission in the Principal Ordinance.

Clause 5.—The object of this amendment is to limit the power of stopping vehicles to police officers in uniform. Both the Secretary of State and the Transport Licensing Board are of the opinion that this power should be limited to such police officers, since otherwise the driver of a vehicle when signalled to stop would not be in a position to know whether he was required by law to stop or, indeed, whether it would be prudent for him to do so.

No expenditure of public moneys will be involved if the provisions of this Bill become law.

GENERAL NOTICE No. 756

NOTICE

Notice is hereby given that rules of court, regulations and orders under the authorities mentioned below have been issued and are published in the supplement to this number of the *Gazette*:—

Rules of Court under Article 26 of the Tanganyika Order in Council, 1920 (Government Notice No. 142 of 1938).

Regulations under the Weights and Measures Ordinance (Government Notice No. 143 of 1938).

Orders under the Township Rules (Government Notices Nos. 144 and 145 of 1938).

G. F. SAYERS

Acting Chief Secretary to the Government

Dar es Salaam, 28th July 1938.

GENERAL NOTICE No. 757

NOTICE

The following Bills, to be submitted to the Legislative Council, were published as a special supplement to *Gazette* No. 36, dated the 22nd July 1938:—

A Bill entitled "An Ordinance relating to the Employment of Women in Industrial Undertakings."

A Bill entitled "An Ordinance to amend the Bills of Exchange Ordinance, 1931."

G. F. SAYERS

Acting Chief Secretary to the Government

Dar es Salaam, 28th July 1938.

GENERAL NOTICE No. 758

S.M.P. 10394/202

NOTICE

APPOINTMENT OF GOVERNOR'S DEPUTY

It is hereby notified for general information that, by virtue of an instrument under the Public Seal of the Territory, dated the 25th day of July 1938, G. F. SAYERS, Esquire, Acting Chief Secretary to the Government, has this day assumed the duties of Deputy to the Governor, during the absence of the Governor from the Seat of Government.

Dar es Salaam,
27th July 1938.

W. E. H. SCUFHAM

Acting Administrative Secretary to the Government

GENERAL NOTICE No. 759

NOTICE

KENYA
No. 433



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GOVERNMENT HOUSE
NAIROBI
KENYA

28 July 1938.

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Sir,

With reference to your predecessor's despatch No. 239 of the 26th April on the subject of the Transport Licensing Ordinance, No. XL of 1937, I have the honour to enclose, for your information, copies of a Bill to Amend the Transport Licensing Ordinance, 1937, the publication of which I have approved, on the advice of my Executive Council, with a view to its introduction into the Legislative Council.

2. It will be observed that this Bill deals with the points mentioned in your predecessor's despatch, with the exception of the comments concerning the addition to Section 12 of Sub-section (3). The Transport Licensing Board has expressed its firm opinion that this sub-section should be retained on the ground that otherwise there is a danger that the main objects of the Ordinance would be defeated. At the same time, the Board has made it clear that it is fully conscious of its responsibility to exercise its discretion in a judicial manner and with due consideration for existing interests, which are, moreover, further safeguarded by the provision of a right of appeal from the decisions of the Board.

In all the circumstances I concur in the view of the Board that sub-section (3) should be retained, and I trust that you will not object to this course.

3./

THE RIGHT HONOURABLE
MALCOLM MACDONALD, M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W. 1.

3. In paragraph 4 of my despatch No.205 of the 7th April I intimated that section 4 of the Ordinance, prohibiting the use of vehicles affected except under and in accordance with the terms of a licence under the Ordinance, would come into operation on the 1st July.

I take this opportunity of informing you that, on the recommendation of the Transport Licensing Board, it has been decided to postpone the coming into force of section 4 of the Ordinance from the 1st July, 1938, to the 1st January, 1939. The reasons for this decision are set out in the accompanying memorandum which was published in the Gazette and in the Press, and copies of which were sent to the Governments of Uganda and the Tanganyika Territory.

I have the honour to be,
Sir,
Your most obedient,
humble servant,

A. Brooke-Popham

AIR CHIEF MARSHAL

G O V E R N O R .

COLONY AND PROTECTORATE OF KENYA



A BILL TO AMEND THE TRANSPORT
LICENSING ORDINANCE, 1937

Licensing Authority.

Section 3 of the Principal Ordinance which it is proposed to amend:—

3. (1) There is hereby established a Transport Licensing Board (in this Ordinance referred to as "the Licensing Authority") which shall consist of—

- (a) the Attorney General, who shall be chairman; and
- (b) four such other persons as the Governor in Council may from time to time nominate.

When the Governor in Council proposes to nominate a person to the Licensing Authority he shall, before making the nomination, require such person to declare whether he has any, and if so what, financial interest in any transport undertaking operating in the Colony.

(2) No person shall be appointed a nominated member of the Licensing Authority—

- (a) if he is insolvent or has assigned his estate for the benefit of his creditors or has made an arrangement with his creditors;
- (b) if he is of unsound mind or has been convicted of an offence and sentenced to imprisonment therefor without the option of a fine.

A Bill to Amend the Transport Licensing Ordinance, 1937

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

1. This Ordinance may be cited as the Transport Licensing (Amendment) Ordinance, 1938, and shall be read as one with the Transport Licensing Ordinance, 1937, hereinafter referred to as the Principal Ordinance.

Short title:
No. 40 of 1937.

2. Section 3 of the Principal Ordinance is hereby amended—

Amendment of section 3 of the Principal Ordinance.

(a) by deleting therefrom the first six lines of sub-section (1) thereof and substituting therefor the following:—

"3. (1) There is hereby established a Transport Licensing Board, which shall be the Licensing Authority for the purposes of this Ordinance, and which shall consist of five persons from time to time appointed by the Governor in Council, who shall also appoint one of such persons to be chairman of the Board."

(b) by deleting therefrom the word "nominated" wherever it appears in sub-sections (2), (3), (4), (5) and (6) thereof.

(c) by substituting the word "appoint" for the word "nominate" which appears in the seventh line of sub-section (1) thereof;

(d) by substituting the word "appointment" for the word "nomination" which appears in the ninth line of sub-section (1) thereof;

(e) by substituting the word "re-appointment" for the word "renomination" which appears in the third line of sub-section (6) thereof.

(3) A nominated member of the Licensing Authority shall become disqualified to retain, and shall *ipso facto* cease to hold, his office as such member if he becomes subject to any of the disabilities set out in the last preceding sub-section or if he is absent from four consecutive meetings of the Licensing Authority without the leave of the Licensing Authority.

(4) The Governor in Council may remove, on the ground of incapacity or misbehaviour, any nominated member of the Licensing Authority from his office.

(5) If a nominated member of the Licensing Authority be removed or vacate his office under this section, or die or resign before the expiry of the period for which he was appointed, his place shall be filled by an appointment by the Governor in Council; and any person appointed to fill the place of any such nominated member shall hold office for the remainder of the period for which such nominated member would otherwise have held office.

(6) The nominated members of the Licensing Authority shall hold office for three years, and each such nominated member shall be eligible for renomination to the Licensing Authority at the expiration of each such period.

(7) In the absence of the Attorney General from any meeting of the Licensing Authority the chairman for such meeting shall be a public officer authorized in writing by the Attorney General.

(8) At all meetings of the Licensing Authority the Attorney General, or the public officer authorized by him under sub-section (7) of this section, together with two other members of the Licensing Authority shall form a quorum.

(9) Meetings of the Licensing Authority shall be held at such times, on such occasions and at such places as the chairman may determine.

(10) The chairman shall have a deliberative vote and in the case of equality of votes shall also have a casting vote. A decision of the majority of the members present at a meeting of the Licensing Authority shall be deemed to be the decision of the Licensing Authority.

(11) The business of the Licensing Authority shall be conducted in such manner as may be prescribed;

(f) by deleting therefrom sub-section (7) thereof and substituting therefor the following:—

“(7) In the event of the absence of the chairman from any meeting of the Licensing Authority the members present shall choose one of their number to act as chairman for that meeting.”

(g) by substituting the word “chairman” for the words and commas “Attorney General, or the public officer authorized by him under sub-section (7) of this section,” which appear in the second and third lines of sub-section (8) thereof;

(h) by substituting the word “person” for the words “other public officer” which appear in the third line of sub-section (15) thereof; and

(i) by inserting therein as sub-section (3A) the following new sub-section:—

“(3A) Where any member of the Licensing Authority is absent from the Colony for any period in excess of six weeks the Governor in Council may, at the request of the chairman, by notice in the Gazette, appoint a member in substitution for the member who is so absent from the Colony. Any member so appointed shall hold office until the member in whose place he has been appointed returns to the Colony.”

Provided that until such procedure has been prescribed, the Licensing Authority shall conduct its business in such manner as the chairman may determine.

(12) The Governor in Council may appoint such persons to act as officers and servants of the Licensing Authority as he considers requisite to enable it to discharge its duties under this Ordinance.

(13) There shall be paid from the revenues of the Colony to the members of the Licensing Authority and to the officers and servants appointed under sub-section (12) of this section such salaries, remuneration and allowances, if any, as the Governor in Council may determine.

(14) The Licensing Authority may delegate to any individual member of the Licensing Authority, or to any Provincial Commissioner, District Commissioner or any other person, any of its functions under this Ordinance:

Provided that any act done by any such individual member of the Licensing Authority, or by any such Provincial Commissioner, District Commissioner or other person, shall be subject to the prior approval of the chairman.

(15) All licences issued under this Ordinance and all communications from the Licensing Authority shall be under the hand of the chairman or of some other public officer duly authorized by the chairman. A notification of any such authorization shall be published in the Gazette under the hand of the chairman.

(16) The chairman shall submit to the Governor for publication an annual report of the proceedings of the Licensing Authority containing particulars with respect to such matters as the Governor may direct.

(17) No member of the Licensing Authority or any officer thereof shall be personally liable for any act or default done or omitted to be done in good faith in the course of the operations of the Licensing Authority under the provisions of this Ordinance.

Section 12 of the Principal Ordinance which it is proposed to amend:—

12. (1) If, on an application for an A or B licence or an inland water transport licence, made not later than such date as the Governor in Council may by notice in the Gazette appoint, the applicant shows to the satisfaction of the Licens-

Licensing
Authority to
submit annual
report.

Protection of
existing
interests.

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no general purpose but that of...

8. Section 12 of the Principal Ordinance is hereby amended—

(a) by inserting the comma and words "a road service licence" between the word "licence" and the word "or" which appear in the first line of sub-section (1) thereof.

Amendment of
section 12 of
the Principal
Ordinance.

ing Authority that, during the twelve months immediately preceding such date, he carried on either wholly or mainly the business of a carrier of goods for hire or reward, the Licensing Authority shall, unless it is satisfied that, having regard to the previous character of the applicant as a carrier of goods, he is not a fit person to receive a licence, grant to the applicant a licence of the class applicable to the business carried on by him in respect of the vehicles or ships, as the case may be, regularly employed by him during the said twelve months in such business:

Provided that the Licensing Authority may if it thinks fit permit the applicant to substitute for the said vehicles, or ships, as the case may be, employed by him as aforesaid, vehicles or ships of a similar type or, in the case of an application for an A or B licence, vehicles of an aggregate weight unladen not greater than the aggregate weight unladen of the said vehicles.

(2) Any licence granted pursuant to the provisions of this section shall be subject to the provisions of section 17 of this Ordinance.

(3) The provisions of this section shall apply only to an application for a licence in respect of the first year of the operation of this Ordinance and thereafter the provisions of section 11 of this Ordinance shall apply.

Section 15 of the Principal Ordinance which it is proposed to amend:

15. (1) In the case of a ship every person applying for a licence for the carriage of passengers and/or goods shall submit to the Licensing Authority—

- (a) particulars of the type or types of ships to be used;
- (b) particulars of the construction of such ship;
- (c) the total number of crew to be carried in such ship;
- (d) the number of passengers such ship is intended to carry;
- (e) the places between which such ship is intended to be navigated, and the services to be provided thereby.

(2) The Licensing Authority, on an application for an inland water transport licence, shall have full power in its discretion either to grant or refuse the application, but in exercising its discretion shall have regard primarily to the

Procedure on application for inland water transport licence.

Discretion of Licensing Authority to grant or refuse inland water transport licence.

(b) by inserting the words "or passengers" between the word "goods" and the word "for" which appear in the seventh line of sub-section (1) thereof;

(c) by substituting the words "goods or passengers" for the word "goods" which appears in the tenth line of sub-section (1) thereof; and

(d) by repealing sub-section (3) thereof and substituting therefor the following—

"(3) The provisions of this section shall apply to an application for a licence in respect of the first year of the operation of section 4 of this Ordinance and thereafter the provisions of section 11 and of section 15 of this Ordinance shall apply."

4. Sub-section (2) of section 15 of the Principal Ordinance is hereby amended by inserting therein the words "subject to the provisions of section 12 of this Ordinance" between the word "shall" and the word "have" which appear in the second line thereof.

Amendment of section 15 (2) of the Principal Ordinance.

Ordinance No. 15 of 1964
Inland Water Transport Ordinance

public interest, to the extent to which the existing transport services serve the routes proposed to be served in the application and to the fares and rates proposed to be charged:

Provided that, where such application is for a licence to carry passengers and/or goods over any route which includes a portion of the inland waters of either the Uganda Protectorate or the Tanganyika Territory or both of these territories, before adjudicating upon such application the Licensing Authority shall take such steps as may appear to it to be necessary to ascertain the views upon such application of any Licensing Authority appointed in either or both of those territories.

Section 30 of the Principal Ordinance which it is proposed to amend:—

Power to stop and inspect vehicles.

30. (1) Any police officer, or any other person duly authorized in writing by the Licensing Authority, may stop any vehicle or ship and/or inspect any vehicle or ship with a view to ascertaining whether or not the provisions of this Ordinance or of any Regulations made thereunder are being complied with, and may demand for inspection the production of any licence, certificate, document or record of any description whatsoever which may, under the provisions of this Ordinance or of any Regulations made thereunder, be required to be carried on such vehicle or ship, and may require the driver or any other person travelling on such vehicle or ship to give such information as such police officer or such authorized person may reasonably request in order to ascertain whether or not the provisions of this Ordinance or Regulations are being complied with.

(2) Any person who obstructs any police officer or duly authorized person in the exercise of the powers conferred on such police officer or such authorized person by this section, or fails to comply with any lawful order given by such police officer or such authorized person or refuses to give any information when requested so to do by such police officer or such authorized person shall be guilty of an offence under this Ordinance.

5. Section 30 of the Principal Ordinance is hereby amended—

Amendment of section 30 of the Principal Ordinance.

- (a) by substituting the words "Any police officer in uniform" for the words "Any police officer, or any other person duly authorized in writing by the Licensing Authority," which appear in the first and second lines of sub-section (1) thereof;
- (b) by deleting therefrom the words "or such authorized person" which appear in the twelfth and thirteenth lines of sub-section (1) thereof and in the third, fifth and seventh lines of sub-section (2) thereof; and
- (c) by deleting therefrom the words "or duly authorized person" which appear in the first and second lines of sub-section (2) thereof.

OBJECTS AND REASONS

The object of this Bill is to make the following amendments to the Transport Licensing Ordinance, 1937.

Clause 2.—The Principal Ordinance provides that the Attorney General shall be chairman of the Board. It is considered preferable to exclude any reference to the Attorney

General in the Ordinance and to provide that the Governor in Council may appoint any person to be chairman.

The other amendments proposed in this Clause, except paragraph (i) which is designed to make provision for the appointment of a substitute member when a member is temporarily absent from the Colony, are consequential.

Clause 3.—Section 12 of the Principal Ordinance gives certain protection to existing interests so far as vehicles requiring A or B licences and ships requiring Inland Water Transport licences, are concerned, but no such protection is afforded to passenger-carrying vehicles which, under the provisions of the Ordinance, are required to have a road service licence. The Secretary of State is of the opinion that such passenger-carrying vehicles should in this respect be treated on an equal footing with goods-carrying vehicles, and the Transport Licensing Board, to which body the matter was referred, is of the same opinion. This Clause is therefore designed to bring passenger-carrying vehicles within the protection afforded to existing interests by section 12 of the Principal Ordinance. The amendment to section 12 (3) is merely to give effect to the decision to defer the introduction of section 4 of the Ordinance until 1st January, 1939.

Clause 4.—This amendment rectifies a drafting omission in the Principal Ordinance.

Clause 5.—The object of this amendment is to limit the power of stopping vehicles to police officers in uniform. Both the Secretary of State and the Transport Licensing Board are of the opinion that this power should be limited to such police officers, since otherwise the driver of a vehicle when signalled to stop would not be in a position to know whether he was required by law to stop or, indeed, whether it would be prudent for him to do so.

No expenditure of public moneys will be involved if the provisions of this Bill become law.

THE TRANSPORT LICENSING ORDINANCE, 1937

His Excellency the Governor in Council has decided on the recommendation of the Transport Licensing Board, to postpone the coming into force of Section 4 of the Transport Licensing Ordinance, 1937, from 1st July 1938, to 1st January 1939.

The effect of this postponement will be that the obligation to have vehicles and ships licensed under this Ordinance will not now arise until 1st January 1939.

The postponement has been necessitated by the unexpectedly large number of objections which had been received. In order to investigate such objections fully, and also to give the applicants who are affected an opportunity to reply thereto, it will be necessary for the Board to hold lengthy sessions, possibly in several different parts of the Colony, and it will consequently be impossible for the Board to complete the task of adjudication in sufficient time for all Licences to be issued by 1st July, 1938.

In view of the fact, therefore, that some postponement is inevitable, and since inconvenience and hardship might be caused to members of the public if they were required to obtain licences for the last few months of 1938 and immediately afterwards to submit fresh applications for 1939, it has seemed best to postpone the application of Section 4 until the beginning of 1939.

Communications will be sent in due course to all existing applicants, informing them that their applications for 1938 will, if desired, be treated as applications for 1939.

With regard to the comparatively small number of cases in which fees have already been paid for "C" Licences for 1938, the Licensees will be given the option of having their money refunded to them immediately, or of leaving it on deposit pending the result of their applications for 1939.

It is proposed to fix the 15th August, 1938, as the latest date for submitting any further applications for 1939.

Copy

Draft on
42207/1/33

9 August, 1933.

Sir,

I am directed by Mr. Secretary MacDonald to acknowledge the receipt of your letter of the 6th of May on the subject of recent legislation for the control of the carriage of passengers and goods by water in Uganda, Kenya and Tanganyika.

2. The Tanganyika Ordinance of the 27th of October, 1927, and the Kenya Ordinance of the 29th of December, 1927, to which you refer in your letter, were framed as the result of the recommendations in the report by Sir Osborne Mance on the Co-ordination of Transport in Kenya, Uganda and the Tanganyika Territory. In Uganda, a Traffic Ordinance was enacted before the recommendations in Sir Osborne Mance's report had been fully considered. However, this measure left the shore-traffic in the Protectorate uncontrolled, and accordingly the Inland Water Transport Ordinance referred to in your letter was enacted on the 9th of December, 1927, in order to bring the Uganda legislation into line with that in the other two

Dependencies.

THE SECRETARY,
JOINT EAST AFRICAN BOARD.

Dependencies.

3. The Tanganyika Transport Ordinance (No. 30 of 1967) has, however, not been brought into operation for the reason that further consideration in Tanganyika of the problem of the licensing shows on Lake Victoria led to a decision to deal with the matter by ad hoc legislation. A copy of the resultant Ordinance No. 1 of 1968, entitled "An Ordinance to make provision for the Control, Co-ordination and Development of Inland Water Systems of Transport", is enclosed for your information.

4. With regard to the suggestion that hardship has been inflicted upon the show owners, the attention of your Executive Council is invited in particular to Sections 12(2) and 13(5) of the Ordinance, from which it will be seen that the interests of shows plying exclusively within the inland waters of the Territory are fully protected, and it will be clear from these provisions that the Tanganyika Government has no intention of interfering with vested interests. At the same time, that Government is not prepared to depart from its policy of protecting its railways, or to permit
 the

the dhow trade to undermine the stability of the railways through operations in which that trade has not previously been engaged. The Dhow Owners' Association is therefore being informed through the Government of Tanganyika, that, after careful consideration of their representations, the Secretary of State cannot see his way to intervene in the matter.

5. As regards the penultimate paragraph of your letter Mr. MacDonald would be obliged if you would be good enough to furnish further particulars of your information that the cost of native supplies is likely to be increased as a result of the licensing of dhows.

I am,

Sir,

Your obedient servant.

(Signed) W. A. DILL

C. O.

Mr. Costley-White (5/4/38
14/4)

Mr. Paskin 19/4 (vide minute) + 28/7

Mr. Grossmith 4/7

Mr. Lane 29-7
Sir H. Moore.

Sir G. Tomlinson.

Sir C. Doughty.

Sir J. Shackburgh

X Perms. U.S. of S. 31 f.s.

Permy. U.S. of S.

Secretary of State.

DOWNING STREET.

1038.

aj

Draft also - 42267/1/38

DRAFT.

THE UNDER SECRETARY OF STATE,
Public Relations Dept.,
INDIA OFFICE.

Sir,

I am etc. to acknowledge *refer to*

~~the receipt of your letter~~

(3) (P. & J. 67/38) of the 15th of February, on the subject of the Kenya Transport Licensing Ordinance, and, with reference to the letter from this Office of the 20th of January to transmit to you, to be laid before the Marquess of Zetland, a copy of a despatch from the Governor of Kenya, in which his observations on the questions raised in your letter (P. & J. 5776/37) of the 31st of December

last

(11)
on -/37

FURTHER ACTION.

19/4/38

From Gov. Kenya 7/3/38 (No 6)

Govt. Notice No 909 12/3/38 (No 21)
(12)
on -/37

Parliamentary Office No 1 of 1938
No 80 of 1937

last are set out in full.

2. As regards the composition of the Transport Licensing Board, it will be observed that, while the Governor is unable to accept the view that it should be prescribed in the Ordinance that the Board should include a person or persons of any particular race, or representing the interests of any particular race, he agrees that the interests of the Indian community should be represented on the Board and that this representation should normally be secured by the appointment of an Indian member.

In pursuance of this policy, the Governor, on the advice of his Executive Council, has appointed Mr. S. T. Thakore to be a member of the Board. Mr. MacDonald trusts that these assurances will be regarded as satisfactory by the Government of India.

3. In paragraphs 5 and 6 of his despatch the Governor describes the measures which have been taken for the control of inland

water

C. O.

Mr. A. C. of the Island
Mr. Water Transport
(Licensing) Regulation
Sir H. M. 1938, issued under
Sir G. Thompson. the Transport
Sir C. B. 1937, is enclosed.
Sir J. Shuckburgh
Parly. U.S. of S.
Parly. U.S. of S.
Secretary of State.

DRAFT.

(2d)

a copy is also enclosed of a General Notice published in the Kenya Official Gazette of the 28th of June, from which it will be observed that the obligation to have vehicles and ships licensed under the Ordinance has been postponed until the 1st of Jan. 1939.

FURTHER ACTION.

4. In water transport in Kenya. considered it Tanganyika, the Government ~~passed to~~ deal with the problem of the control of inland water transport in the Territory by separate legislation rather than by the Tanganyika Transport Ordinance of 1937, and, as a result, the Tanganyika Inland Water Transport Ordinance, 1938, a copy of which is enclosed, was passed in the Legislative Council on the 30th of March. There is no difference in principle between the Tanganyika legislation and that of Kenya; indeed there is almost complete literal uniformity. There is a difference in administrative machinery in that the Tanganyika Ordinance enables the licensing of inland water transport to be done locally instead of by the Transport Board contemplated by the Transport Ordinance of 1937. The reasons for this

this provision are, first, that ~~Tanganyika~~
~~has~~ ^{there is} no present necessity for bringing
the Transport Board ^{in Tanganyika} into being and,
secondly, that as the licensing of dhows
on Lake Victoria is a purely local problem
it is considered that it should be
administered locally.

5. Representations have been made
by the Dhow Owners' Association, Mwanza,
both as regards the provisions contained
in the Tanganyika Transport Ordinance of
1937, ^(copy attached) relating to the control of inland water
transport, and the provisions in Ordinance
No. 1 of 1938. Neither Ordinance has in
fact been brought into operation, but it is
intended that the latter should be brought
into operation when the necessary rules
have been made by the Governor-in-Council.
The drafting of the rules is being done in
consultation with the Governments of
Kenya and Uganda. In reply to the Dhow
Owners' representations, the Governor of
Tanganyika is being requested to point
out

C. O.

- Mr.
- Mr.
- Mr.
- Sir H. Moore.
- Sir G. Tomlinson.
- Sir C. Bottomley.
- Sir J. Stuchburgh.
- Parly. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

DRAFT.

FURTHER ACTION.

out to the Association the extent
to which the Inland Water Transport
Ordinance, 1938, differs from the
Transport Ordinance, 1937. The
Association will also be asked to
take note of the fact that the
interests of the owners of dhows
plying exclusively within the
inland waters of the Territory
are fully safeguarded, but that
the Government of Tanganyika ~~is~~
~~not prepared~~ ^{cannot} permit the
stability of the Tanganyika
Railways to be undermined through
operations in which the dhow
trade has ~~not~~ ^{not} previously been
engaged.

I am, etc.

(Signed) J. J. PASKIN.

GOVERNMENT NOTICE No. 461

THE TRANSPORT LICENSING ORDINANCE, 1937
REGULATIONS

IN EXERCISE of the powers conferred upon him by the Transport Licensing Ordinance, 1937, His Excellency the Governor on the advice of Council has been pleased to make the following Regulations:—

1. These Regulations may be cited as the Inland Water Transport (Licensing) (Amendment) Regulations, 1938, and shall be read as one with the Inland Water Transport (Licensing) Regulations, 1938, hereinafter referred to as the Principal Regulations.

2. Subregulation (1) of Regulation 12. of the Principal Regulations is hereby amended by deleting the words and figure—

"For any other ship 5 per ship"
 which occur in the seventh line thereof and by substituting therefor the following:—

"For any other ship, not being a ship registered under the Fish Protection Ordinance (Chapter 163 of the Revised Edition) or any Rules made thereunder Sh. 5 per ship

For a ship not exceeding 5 tons net registered tonnage which is registered under the Fish Protection Ordinance (Chapter 163 of the Revised Edition) or any Rules made thereunder and used exclusively for fishing Free."

By Command of His Excellency the Governor on the advice of Council.

Nairobi,

This 3rd day of June, 1938.

R. W. BAKER-BEALL,
Clerk to the Executive Council.

fraded under Chief Sec. 3 p. 4

22 39

COLONY AND PROTECTORATE OF KENYA

GOVERNMENT NOTICE NO. 461

THE TRANSPORT LICENSING ORDINANCE, 1937
REGULATIONS

IN EXERCISE of the powers conferred upon him by the Transport Licensing Ordinance, 1937, His Excellency the Governor on the advice of Council has been pleased to make the following Regulations:—

1. These Regulations may be cited as the Inland Water Transport (Licensing) (Amendment) Regulations, 1938, and shall be read as one with the Inland Water Transport (Licensing) Regulations, 1938, hereinafter referred to as the Principal Regulations.

2. Sub-regulation (1) of Regulation 12 of the Principal Regulations is hereby amended by deleting the words and figure—

"For any other ship 5 per ship"
which occur in the seventh line thereof and by substituting therefor the following:—

"For any other ship, not being a ship registered under the Fish Protection Ordinance (Chapter 163 of the Revised Edition) or any Rules made thereunder Sh. 5 per ship"

For a ship not exceeding 5 tons net registered tonnage which is registered under the Fish Protection Ordinance (Chapter 163 of the Revised Edition) or any Rules made thereunder and used exclusively for fishing Free."

By Command of His Excellency the Governor on the advice of Council.

Nairobi,

This 3rd day of June, 1938.

R. W. BAKER-BEALL,
Clerk to the Executive Council.

38342/38

~~3c~~

GENERAL NOTICE No. 909

THE TRANSPORT LICENSING ORDINANCE, 1937

It is hereby notified for general information that His Excellency the Governor in Council has decided, on the recommendation of the Transport Licensing Board, to postpone the coming into force of section 4 of the Transport Licensing Ordinance, 1937, from 1st July, 1938, to 1st January, 1939.

The effect of this postponement will be that the obligation to have vehicles and ships licensed under this Ordinance will not now arise until 1st January, 1939.

The postponement has been necessitated by the unexpectedly large number of objections which have been received. In order to investigate such objections fully, and also to give the applicants who are affected an opportunity of replying thereto, it will be necessary for the Board to hold lengthy sessions, possibly in several different parts of the Colony, and it will consequently be impossible for the Board to complete the task of adjudication in sufficient time for all licences to be issued by 1st July, 1938.

In view of the fact, therefore, that some postponement is inevitable, and since inconvenience and hardship might be caused to members of the public if they were required to obtain licences for the last few months of 1938 and immediately afterwards to submit fresh applications for 1939, it has seemed best to postpone the application of section 4 until the beginning of 1939.

Communications will be sent in due course to all existing applicants, informing them that their applications for 1938 will, if desired, be treated as applications for 1939.

With regard to the comparatively small number of cases in which fees have already been paid for "C" licences for 1938, the licensees will be given the option of having their money refunded to them immediately, or of leaving it on deposit pending the result of their applications for 1939.

It is proposed to fix 15th August, 1938, as the latest date for submitting any further applications for 1939.

A. PHILLIPS,
for Chairman,
Transport Licensing Board.

AIR MAIL

WHEN REPLYING
PLEASE QUOTE
NO. 50

D/LEG.CO.26/3/8/
AND DATE



20
41
**THE SECRETARIAT
NAIROBI
KENYA**

16 May, 1938

The Acting Colonial Secretary
of the Colony and Protectorate
of Kenya presents his compli-
ments to the Under Secretary
of State for the Colonies, and
has the honour to forward
twelve copies each of the under-
mentioned publications :

38342/38 The Inland Water Transport (Licensing)
Regulations, 1938 ;

38343/38 Return of Land Grants under the Crown
Lands Ordinance from 1st January to
31st March, 1938.

COLONY AND PROTECTORATE OF KENYA



THE
INLAND WATER TRANSPORT
(LICENSING) REGULATIONS,
1938

THE TRANSPORT LICENSING ORDINANCE, 1937

REGULATIONS

IN EXERCISE of the powers conferred upon him by the Transport Licensing Ordinance, 1937, His Excellency the Governor in Council has been pleased to make the following Regulations:—

1. These Regulations may be cited as the Inland Water Transport (Licensing) Regulations, 1938, and shall come into force on the first day of May, 1938.

Short title and commencement.

2. In these Regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:—

Definitions.

“the Ordinance” means the Transport Licensing Ordinance, 1937;

“the Licensing Officer” means the District Commissioner, Kisumu—Londiani to whom the Licensing Authority has, under the powers conferred upon it by sub-section (14) of section 3 of the Transport Licensing Ordinance, 1937, delegated its functions under the Ordinance: Provided that no application for a licence shall be granted or refused except with the consent of the Licensing Authority or a member or members of the Licensing Authority duly authorized in that behalf;

“licence” means an inland water transport licence issued under the provisions of the Ordinance;

“application” means application for a licence and includes application for the variation of a licence;

“the holder of a licence” means the person to whom that licence was granted and issued;

“ship” includes every description of vessel used in navigation propelled otherwise than by oars or hand paddles and every lighter, barge, or like vessel used in navigation however propelled.

3. Every application for a licence or for the variation of a licence shall be in the appropriate form set out in the First Schedule to these Regulations.

Applications.

4. Every application shall be signed by the person requiring the licence and, if made by any corporate body or partnership firm, shall be signed by a person duly authorized in that behalf by such body, or a partner of the partnership firm, as the case may be.

Signing of applications.

5. An applicant shall not include in any application—

- (a) a ship specified in any licence held by him, unless the application is for a licence to replace the licence on which the ship is specified or is for the purpose of having the ship deleted from one licence and added to another licence; or
- (b) a ship specified in any licence issued to him which has been suspended or revoked, during the period of such suspension or before the date when such revoked licence is expressed to expire.

Date of
submissions of
applications.

6. (1) Subject to the provisions of sub-Regulation (2) of this Regulation, every application, shall be sent to the Licensing Officer so as to reach him not less than six weeks before the date on which it is desired that the licence shall take effect.

(2) In the case of licences for the year 1938, in respect of ships in use at the date of the coming into force of these Regulations, applications for such licences shall be sent to the Licensing Officer so as to reach him not later than the 31st day of May, 1938.

(3) Where the application is for a licence for the year 1938, and the applicant has carried on either wholly or mainly the business of a carrier of goods for hire or reward, he shall state in his application which of the ships in respect of which the application is made have been, or will have been, regularly employed by him in such business during the twelve months preceding the 14th day of May, 1938.

(4) An application for an exclusive licence may be sent to the Licensing Authority at any time.

(5) Notwithstanding the provisions of this Regulation, the Licensing Officer may, in his discretion, accept and deal with any application although such application has not been received within the time prescribed.

7. The Licensing Officer shall cause to be published in the Gazette, as occasion may require, a statement hereinafter called "Applications and Decisions" which shall contain (unless previously notified)—

- (1) a statement of all applications received;
- (2) a statement of all applications granted or refused;
- (3) any decision to revoke or suspend a licence.

Statement to be
published by
Licensing
Officer.

8. (1) Every objection in respect of an application shall be in writing in the form set out in the Second Schedule to these Regulations and shall be signed by the person making it. If the objection is made by any body corporate or partnership firm, it shall be signed by a person duly authorized in that behalf by such body or a partner of the partnership firm as the case may be.

Notice of
objections.

(2) Every such objection shall be sent to the Licensing Officer so as to reach him not later than fourteen days after notice of the application has appeared in "Applications and Decisions" published under the provisions of Regulation 7 of these Regulations.

(3) A copy of every such objection shall be sent by the objector to the applicant at the same time as it is sent to the Licensing Officer.

(4) The Licensing Officer may in his discretion consider objections notwithstanding that the requirements of this Regulation have not been complied with.

9. The Inland Water Transport Licences to be issued under the provisions of the Ordinance shall be in the appropriate form set out in the Third Schedule to these Regulations.

10. (1) The Licensing Officer shall issue to the holder of a licence a certificate, hereinafter referred to as an "Identity Certificate", in respect of each ship authorized to be used under the licence. Such certificate shall be in the form set out in the Fourth Schedule to these Regulations.

Identification
of authorized
ships.

(2) The holder of a licence shall, during such time as any ship is used under the licence, cause the appropriate Identity Certificate to be carried on such ship and maintained in a clean and legible condition.

(3) The holder of a licence shall, if so required by the Licensing Officer, cause to be marked in a visible position on the ship the number of the Identity Certificate or such information as the Licensing Officer may consider necessary in order clearly to indicate whether or not the ship is duly licensed.

11. For the purpose of a variation of a licence the holder, if so required by the Licensing Officer shall return the licence to the Licensing Officer and, on the issue of a variation, shall return the Identity Certificate in respect of any ship to be deleted from the licence.

Return of
licences and
certificates on
variation.

5. An applicant shall not include in any application—

- (a) a ship specified in any licence held by him, unless the application is for a licence to replace the licence on which the ship is specified or is for the purpose of having the ship deleted from one licence and added to another licence; or
- (b) a ship specified in any licence issued to him which has been suspended or revoked, during the period of such suspension or before the date when such revoked licence is expressed to expire.

Date of
submissions of
applications

6. (1) Subject to the provisions of sub-Regulation (2) of this Regulation, every application, shall be sent to the Licensing Officer so as to reach him not less than six weeks before the date on which it is desired that the licence shall take effect

(2) In the case of licences for the year 1938, in respect of ships in use at the date of the coming into force of these Regulations, applications for such licences shall be sent to the Licensing Officer so as to reach him not later than the 31st day of May 1938

(3) Where the application is for a licence for the year 1938, and the applicant has carried on either wholly or mainly the business of a carrier of goods for hire or reward, he shall state in his application which of the ships in respect of which the application is made have been, or will have been, regularly employed by him in such business during the twelve months preceding the 14th day of May, 1938.

(4) An application for an exclusive licence may be sent to the Licensing Authority at any time.

(5) Notwithstanding the provisions of this Regulation, the Licensing Officer may, in his discretion, accept and deal with any application although such application has not been received within the time prescribed.

Statement to be
published by
Licensing
Officer.

7. The Licensing Officer shall cause to be published in the Gazette, as occasion may require, a statement hereinafter called "Applications and Decisions" which shall contain (unless previously notified therein)—

- (1) a statement of all applications received;
- (2) a statement of all applications granted or refused;
- (3) any decision to revoke or suspend a licence.

8. (1) Every objection in respect of an application shall be in writing in the form set out in the Second Schedule to these Regulations and shall be signed by the person making it. If the objection is made by any body corporate or partnership firm, it shall be signed by a person duly authorized in that behalf by such body or a partner of the partnership firm as the case may be.

Notice of
objections.

(2) Every such objection shall be sent to the Licensing Officer so as to reach him not later than fourteen days after notice of the application has appeared in "Applications and Decisions" published under the provisions of Regulation 7 of these Regulations.

(3) A copy of every such objection shall be sent by the objector to the applicant at the same time as it is sent to the Licensing Officer.

(4) The Licensing Officer may in his discretion consider objections notwithstanding that the requirements of this Regulation have not been complied with.

9. The Inland Water-Transport Licences to be issued under the provisions of the Ordinance shall be in the appropriate form set out in the Third Schedule to these Regulations.

10. (1) The Licensing Officer shall issue to the holder of a licence a certificate, hereinafter referred to as an "Identity Certificate", in respect of each ship authorized to be used under the licence. Such certificate shall be in the form set out in the Fourth Schedule to these Regulations.

Identification
of authorized
ships.

(2) The holder of a licence shall, during such time as any ship is used under the licence, cause the appropriate Identity Certificate to be carried on such ship and maintained in a clean and legible condition.

(3) The holder of a licence shall, if so required by the Licensing Officer, cause to be marked in a visible position on the ship the number of the Identity Certificate or such information as the Licensing Officer may consider necessary in order clearly to indicate whether or not the ship is duly licensed.

11. For the purpose of a variation of a licence the holder, if so required by the Licensing Officer shall return the licence to the Licensing Officer and, on the issue of a variation, shall return the Identity Certificate in respect of any ship to be deleted from the licence.

Return of
licences and
certificates on
variation.

Fees.

12. (1) The fees for an Inland Water Transport Licence shall be as follows:—

	Sh.
For a ship of 15 tons net registered tonnage and upwards	20 per ship
For a ship of more than five tons but less than fifteen tons net registered tonnage	10 per ship
For any other ship	5 per ship

(2) The fee payable for the variation of a licence shall—
(a) where the application is for the addition of any ship, be the same fee per ship as would be payable under sub-Regulation (1) of this Regulation for a licence for such ship;

(b) where the application is for the deletion of any ship or ships and no ship is to be added, be Sh. 2/50 for the variation.

13. If during the currency of the licence the holder thereof changes his address he shall, within seven days after the date of such change, notify such change to the Licensing Officer.

Notification of change of address.

14. (1) If any licence or document issued by the Licensing Officer has during the currency thereof been lost, destroyed, or defaced, the holder thereof shall forthwith notify the Licensing Officer who shall, if satisfied that it has been so lost, destroyed, or defaced, cause a duplicate (so marked) to be issued to such holder and such duplicate shall have the same effect as the original licence or document: Provided that, in the case of any licence or document which has been defaced, the duplicate shall be so issued only after the surrender of the original licence or document to the Licensing Officer.

Issue of duplicate licences and other documents.

(2) Where a licence or document which has been lost and replaced is recovered the original licence or document shall be returned to the Licensing Officer forthwith.

(3) The fees to be paid for a duplicate licence or document shall be ten per centum of the fee payable for the original licence or document, with a minimum fee of Sh. 1.

15. If a licence ceases to have effect, otherwise than by the effluxion of time, or is suspended or revoked the holder thereof shall, within seven days after a notice to that effect has been delivered to him personally or sent to him by registered post at the address shown in his application or last notified in accordance with Regulation 13 of these Regulations, send or deliver such licence together with the Identity Certificates

Return of licences and certificates to Licensing Officer.

issued under the licence to the Licensing Officer for retention during the time of suspension, or for cancellation or alteration, as the case may be, and the Licensing Officer shall, on the removal of a suspension, return the licence and Identity Certificates to the holder.

16. If during the currency of a licence the holder thereof ceases to be the owner of any ship specified therein he shall, within seven days thereafter, notify the Licensing Officer and return the licence to him for amendment or cancellation as the case may be together with the relative Identity Certificate.

Ships passing out of possession of holder of licence.

17. Where owing to the death, incapacity, bankruptcy or liquidation of the holder of a licence or to the appointment of a receiver or manager in relation to his business, such holder ceases to be the user of the ships authorized to be used by him under the licence, the person carrying on the business of the holder shall be deemed to be the holder of the licence if—

Death, bankruptcy, etc., of holder of licence.

(a) within fourteen days thereafter notice that the holder has ceased to be the user of those ships and the reason therefor, and the name of the person by whom the business is being carried on, be sent to the Licensing Officer, and

(b) within one month after the sending of such notice an application for a new licence be duly made:

Provided that the period during which such person shall be deemed to be the holder of the licence shall in no case extend beyond the date on which the licence would have expired but for the occurrence of the said event and shall terminate immediately the application is disposed of.

18. (1) Any person authorized in writing by the Licensing Officer, or by a police officer not below the rank of Superintendent, may at all reasonable times require the production, for the purposes of inspection, of any licence or Identity Certificate issued under the provisions of the Ordinance.

Powers of inspection.

(2) Any person who fails or refuses to produce any such licence or Identity Certificate when required so to do by any person so authorized shall be guilty of an offence against these Regulations.

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

This 23rd day of April, 1938.

R. W. BAKER-BEALL,
Clerk to the Executive Council.

FIRST SCHEDULE
APPLICATION FOR AN INLAND WATER
TRANSPORT LICENCE

THE TRANSPORT LICENSING ORDINANCE, 1937

Application for an Inland Water Transport Licence

To The District Commissioner,
Kisumu-Londiani.

I hereby apply for an Inland Water Transport Licence (in continuation of an Inland Water Transport Licence No. IWT) in respect of the ships of the type described in the annexed Schedule, and I hereby declare that to the best of my knowledge and belief all the statements in this application and the annexed Schedule which has been signed by me are true.

Date

Signature

1. Full name of applicant
2. Address
3. Is the application for a licence in continuation of an existing licence issued to another person whose business the applicant has acquired or intends to acquire? If so, state:—
 - (a) Name of that person
 - (b) Number of existing licence issued to that person
4. Facilities which applicant proposes to provide for hire or reward:—
 - (a) Class or description of goods to be carried;
 - (b) Number of passengers to be carried;
 - (c) Particulars of the route to be served, and the service or services proposed to be operated, by the applicant, including, in the case of regular services, the time-tables of such services, and in any other case the frequency of such services and the times expected to be taken on the journeys proposed

- (d) Particulars of rates proposed to be charged in respect of the carriage of goods
- (e) Particulars of the fares proposed to be charged for the carriage of passengers

5. Each ship included in the application is to be used for the carriage of goods for or in connexion with the business of (state nature of business) carried on by applicant and is not to be used for the carriage of goods for hire or reward.

Note.—Inapplicable clauses should be deleted.

Schedule

Port of Registration	Registration Number	Type of ship	Number of crew	Net Registered tonnage	Passenger-carrying capacity	Characteristics and other particulars of ship

Signature of Applicant

APPLICATION FOR VARIATION OF AN INLAND
WATER TRANSPORT LICENCE

THE TRANSPORT LICENSING ORDINANCE, 1937

Application for Variation of an Inland Water Transport Licence

To The District Commissioner,
Kisumu-Londiani.

I hereby apply for the variation of the undermentioned licence and declare that, to the best of my knowledge and belief, the statements made below are true and correct.

Date

Signature

FIRST SCHEDULE
APPLICATION FOR AN INLAND WATER
TRANSPORT LICENCE

THE TRANSPORT LICENSING ORDINANCE, 1937

Application for an Inland Water Transport Licence

To The District Commissioner,
Kisumu-Londiani.

I hereby apply for an Inland Water Transport Licence (in continuation of an Inland Water Transport Licence No. IWT.....) in respect of the ships of the type described in the annexed Schedule, and I hereby declare that to the best of my knowledge and belief all the statements in this application and the annexed Schedule which has been signed by me are true.

Date

Signature

1. Full name of applicant
2. Address
3. Is the application for a licence in continuation of an existing licence issued to another person whose business the applicant has acquired or intends to acquire? If so, state:—
 - (a) Name of that person
 - (b) Number of existing licence issued to that person
4. Facilities which applicant proposes to provide for hire or reward:—
 - (a) Class or description of goods to be carried;
 - (b) Number of passengers to be carried;
 - (c) Particulars of the route to be served, and the service or services proposed to be operated, by the applicant, including, in the case of regular services, the time-tables of such services, and in any other case the frequency of such services and the times expected to be taken on the journeys proposed

(d) Particulars of rates proposed to be charged in respect of the carriage of goods

(e) Particulars of the fares proposed to be charged for the carriage of passengers

5. Each ship included in the application is to be used for the carriage of goods for or in connexion with the business of (state nature of business) carried on by applicant and is not to be used for the carriage of goods for hire or reward.

Note.—Inapplicable clauses should be deleted.

Schedule

Part of Registration	Registration Number	Type of ship	Number of crew	Net Registered tonnage	Passenger carrying capacity	Net registered and motive power of ship

Signature of Applicant

APPLICATION FOR VARIATION OF AN INLAND
WATER TRANSPORT LICENCE

THE TRANSPORT LICENSING ORDINANCE, 1937

Application for Variation of an Inland Water Transport Licence

To The District Commissioner,
Kisumu Londiani.

I hereby apply for the variation of the undermentioned licence and declare that, to the best of my knowledge and belief, the statements made below are true and correct.

Date

Signature

1. Full name of applicant
2. Address
3. Inland Water Transport licence to be varied: No. IWT
- (4) (a) Please take off my licence these ships:—
Ships
- Registration Nos.
- (b) I apply to have added to my licence these ships now owned, or to be acquired, by me:—

Port of Registration	Registration Number	Number of crew	Net Registered tonnage	Number of Passengers	Motive Power

- 5 Please vary the conditions attached to my licence so that they will read
6. (Only for variations of an Inland Water Transport Licence which will increase the number, or the aggregate carrying capacity, of the authorized ships).
 - (a) Particulars of the service or services proposed to be operated by applicant including in the case of regular services the time-tables of such services, and in any other case the frequency of such services and the times expected to be taken on the journeys proposed.
 - (b) Particulars of the fares and/or rates proposed to be charged in respect of the service or services the subject of this application.
 - (c) Is the proposed increase due to the applicant having acquired or being about to acquire the business of another person? If so, state:—
 - (i) Name of that person
 - (ii) Number of existing licence issued to that person and date of expiry

APPLICATION FOR AN EXCLUSIVE LICENCE

THE TRANSPORT LICENSING ORDINANCE, 1937

Application for an Exclusive Inland Water Transport Licence

To The Licensing Authority,
P.O. Box No. 112,
Nairobi,

through The District Commissioner,
Kisumu-Londiani.

Application for an Exclusive Inland Water Transport Licence

(This form must never be returned alone but must have attached to it an application form for an Inland Water Transport Licence).

I wish the attached application to be considered as an application for an Exclusive Licence to be granted to me for a period of years.

Date

Signature

SECOND SCHEDULE

THE TRANSPORT LICENSING ORDINANCE, 1937

Notice of Objection

To The District Commissioner,
Kisumu-Londiani.

*Notice of Objection to the Application made by.....
and numbered*
in Applications and Decisions dated.....

I/We,.....
already providing transport for the carriage of goods/persons between and
by virtue of the Transport Licensing Ordinance, 1937, (Inland Water Transport Licence No. IWT.....) and

1. Full name of applicant
2. Address
3. Inland Water Transport licence to be varied: No. IWT
- (4) (a) Please take off my licence these ships:—
Ships
- Registration Nos.
- (b) I apply to have added to my licence these ships now owned, or to be acquired, by me:—

Port of Registration	Registration Number	Number of crew	Net Registered tonnage	Number of Passengers	Motive Power

5. Please vary the conditions attached to my licence so that they will read
6. (Only for variations of an Inland Water Transport Licence which will increase the number, or the aggregate carrying capacity, of the authorized ships).—
- (a) Particulars of the service or services proposed to be operated by applicant including in the case of regular services the time-tables of such services, and in any other case the frequency of such services and the times expected to be taken on the journeys proposed.
- (b) Particulars of the fares and/or rates proposed to be charged in respect of the service or services the subject of this application.
- (c) Is the proposed increase due to the applicant having acquired or being about to acquire the business of another person? If so, state:—
- (i) Name of that person
- (ii) Number of existing licence issued to that person and date of expiry

APPLICATION FOR AN EXCLUSIVE LICENCE
THE TRANSPORT LICENSING ORDINANCE, 1937
Application for an Exclusive Inland Water Transport Licence

To The Licensing Authority,
P.O. Box No. 112,
Nairobi,

through The District Commissioner,
Kisumu-Londiani.

Application for an Exclusive Inland Water Transport Licence

(This form must never be returned alone but must have attached to it an application form for an Inland Water Transport Licence).

I wish the attached application to be considered as an application for an Exclusive Licence to be granted to me for a period of years.

Date

Signature

SECOND SCHEDULE
THE TRANSPORT LICENSING ORDINANCE, 1937
Notice of Objection

To The District Commissioner,
Kisumu-Londiani.

*Notice of Objection to the Application made by.....
and numbered
in Applications and Decisions dated*

I/We,
already providing transport for the carriage of goods/persons
between and
by virtue of the Transport Licensing Ordinance, 1937, (Inland
Water Transport Licence No. IWT.....) and

in particular the following transport facilities

object to the above application on the ground that—

- * (1) suitable transport facilities (namely, the services of the present objector and of) are already in excess of requirements;
- * (2) suitable transport facilities (namely, the services of the present objector and of) would, if this application were granted, be in excess of requirements.
- † (3) the conditions attached to a licence held by the applicant have not been complied with in the following respects, namely

‡ My/Our objection is particularly directed—

‡ (a) to the inclusion in the licence of the following § ships (or any ship which may be substituted for any of those ships)

‡ (b) to the grant of the licence unless conditions to the following effect are attached to it:—

‡ (c) in respect of applications for the variation of conditions attached to licences to the proposed variation in so far as it would permit

(d) In respect of application for an Exclusive Licence:—
State reasons

A copy of this objection has been sent to the Applicant.
Signature of Objector

Address

Date

* Omit one of these paragraphs.

† If applicable, give details of alleged failures. A full statement may obviate the need of an inquiry.

‡ Omit all or any of these paragraphs which are inapplicable.

§ The ships need not be specified by Registration Number but may be indicated by such phrases as: "Ships additional to those already authorized"; "3 ships in possession"; "1 ship to be acquired", etc.

THIRD SCHEDULE
INLAND WATER TRANSPORT LICENCE
THE TRANSPORT LICENSING ORDINANCE, 1937

Inland Water Transport Licence

Licence No. IWT Issued to:—

No. of Ships

--

Fee payable

--

Kisumu,

Date

*Licensing Officer
for Licensing Authority*

Inland Water Transport Licence

The Licensing Authority hereby authorizes the person to whom this licence is issued to use up to and including the day of 193... upon Lake the ships described in the First Schedule hereto.

Subject to—

- (a) the payment to the District Commissioner, Kisumu—Londiani, of the fees shown in the sixth column of the said Schedule, the receipt of which will be acknowledged on the respective Identity Certificates;
- (b) the provisions of the Transport Licensing Ordinance, 1937, and of any Regulations made thereunder; and
- (c) the special conditions endorsed on the Second Schedule hereto.

First Schedule

Port of Registration	Registration Number	Net Registered tonnage	Number of Passengers	Motive Power	Fee Payable

Second Schedule

SPECIAL CONDITIONS

in particular the following transport facilities

object to the above application on the ground that—

- * (1) suitable transport facilities (namely, the services of the present objector and of) are already in excess of requirements;
- * (2) suitable transport facilities (namely, the services of the present objector and of) would, if this application were granted, be in excess of requirements.
- † (3) the conditions attached to a licence held by the applicant have not been complied with in the following respects, namely

‡ My/Our objection is particularly directed—

- ‡ (a) to the inclusion in the licence of the following ships (or any ship which may be substituted for any of those ships)
- ‡ (b) to the grant of the licence unless conditions to the following effect are attached to it:—
- ‡ (c) in respect of applications for the variation of conditions attached to licences to the proposed variation in so far as it would permit

§ In respect of application for an Exclusive Licence:—
State reasons

A copy of this objection has been sent to the Applicant.

Signature of Objector

Address

Date

* Omit one of these paragraphs.

† If applicable, give details of alleged failures. A full statement may obviate the need of an inquiry.

‡ Omit all or any of these paragraphs which are inapplicable.

§ The ships need not be specified by Registration Number but may be indicated by such phrases as: "Ships additional to those already authorized"; "3 ships in possession"; "1 ship to be acquired", etc.

THIRD SCHEDULE

INLAND WATER TRANSPORT LICENCE

THE TRANSPORT LICENSING ORDINANCE, 1937

Inland Water Transport Licence

Licence No. IWT Issued to:—

No. of Ships

--

--

Fee payable

--

Kisumu,

Date

Licensing Officer
for Licensing Authority

Inland Water Transport Licence

The Licensing Authority hereby authorizes the person to whom this licence is issued to use up to and including the day of 193... upon Lake the ships described in the First Schedule hereto.

Subject to—

- (a) the payment to the District Commissioner, Kisumu-Londiani, of the fees shown in the sixth column of the said Schedule, the receipt of which will be acknowledged on the respective Identity Certificates;
- (b) the provisions of the Transport Licensing Ordinance, 1937, and of any Regulations made thereunder; and
- (c) the special conditions endorsed on the Second Schedule hereto.

First Schedule

Port of Registration	Registration Number	Net Registered tonnage	Number of Passengers	Motive Power	Fee Payable

Second Schedule

SPECIAL CONDITIONS

VARIATION OF A LICENCE

THE TRANSPORT LICENSING ORDINANCE, 1937

Variation of Licence No. IWT..... Issued to:—

Serial No.

Fee payable.

Sh.

Number of
additional ships
authorized.Number of
ships deleted.

Kisumu,

Date

.....
Licensing Officer
 for Licensing Authority

Subject to the payment to the District Commissioner
 Kisumu-Londiani of the fee of Sh. the Licensing
 Authority hereby varies the above Licence as follows:—

Ships deleted therefrom:—

Ships added thereto:—

N.B.—This Variation must be attached to the licence to
 which it relates.

FOURTH SCHEDULE
IDENTITY CERTIFICATE

THE TRANSPORT LICENSING ORDINANCE, 1937

Identity Certificate

Fee Paid.....

This is to certify that the ship herein described is a
 licensed ship for the year under the Transport
 Licensing Board's Licence No. IWT issued
 by the District Commissioner, Kisumu-Londiani to:—

Name

Address

Description

Port of Registration

Registration No.

Motive Power

Net Registered Tonnage

Number of Passengers

Number of Crew

Operating between/on

Kisumu,

Date

.....
Licensing Officer
 for Licensing Authority

N.B.—In the case of a ship in respect of which a Short
 Term Licence has been issued, the above certificate will be
 varied by substituting the words "for the period from
 to" for the words "for
 the year".

copies on 42267/1/38

18
30

JOINT EAST AFRICAN BOARD.

TELEPHONE:
WHITENALL 2267.
CABLES:
JOINTBOARD. LONDON.

RECEIVED
9 - MAY 1938
C. O. REGY.

22, QUEEN ANNE'S GATE,
WESTMINSTER,
LONDON, S.W.1.

JL/BO'D.

6th May, 1938.

The Secretary of State for the Colonies,
The Colonial Office,
Downing Street,
S.W.1.

Sir,

My Executive Council have received representations from the Uganda Chamber of Commerce in connection with recent legislation for the restriction and control of the carriage of goods and passengers by water within the Protectorate. Our correspondents have enclosed memoranda not only from themselves but also from the Dhow Owners Association at Mwanza, a copy of the latter of which we understand has been sent to you. The position as my Executive Council understands it is that ordinances have been passed in three territories as follows:-

See (2) Kenya
and encl to
(1) on 42267/1/38
Tanganyika

40214
50214/38 Uga

42267/1/37 77

2 on 303142/38

1. The Inland Transport (Control) Ordinance, 9th December, 1937. - Uganda.
2. The Transport Ordinance, 27th October, 1937. Tanganyika.
3. The Transport Licensing Ordinance, 29th December, 1937. Kenya.

The last two Ordinances relate to all kinds of

The Secretary of State for the Colonies. 6th May, 1938.

transport, including the question of Inland Water Transport control.

It would appear that the passing of these different Ordinances at different times has created confusion which should be straightened out. It has been suggested to my Executive Council that hardships have been inflicted upon the Dhow owners and if this is the case you would no doubt wish the matter to be fully investigated. We have no information as to whether these various Ordinances have come into operation.

If they have, my Council would be grateful if you would arrange for the subject to be further investigated. If, however, the Ordinances have not come into operation, my Council venture to suggest that a short delay would allow the whole matter to be further investigated.

While my Council are submitting these suggestions to you in accordance with a request forwarded to them, they would add that you might wish to consider the effect of the Ordinances which, as at present drawn, seem to be likely to increase the cost of all essential native supplies.

Should you wish my Council to supply you with some of the detailed objections and recommendations they will be only

The Secretary of State for the Colonies.

6th May, 1938.

too glad to do so.

I am, Sir,

Your obedient servant,

Reginald O'Donovan

SECRETARY

17.
23 April, 1956.

Sir,

10 I have the honour to refer to your telegram No. 66 of the 7th of April, on the subject of the memorandum from the Dhow Owners' Association of Mwanza regarding legislation for the control of inland water transport.

11 2. As I informed you in my telegram No. 77 of the 18th of April, the Bill entitled "an Ordinance to make provision for the Control, Co-ordination and Development of Inland Water Systems of Transport" was passed through all its stages in Legislative Council on the 29th and 30th of March and received assent on the 6th of April. A copy of this Ordinance, together with the Attorney General's report, was forwarded to you under cover of Mr. Brayton's despatch No. 188 of the 18th of April.

3. Since the receipt of your telegram under reference I have received a copy of despatch No. 205 of the 7th of April, addressed to you by the Governor of Kenya on this subject and as there would appear to be some misunderstanding of this Government's policy with regard to transport legislation as a whole I deem it advisable to outline the various considerations by which this Government has been guided.

THE RIGHT HONOURABLE

W. S. A. GIBNEY-GIBBY, M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON.

4. As you are aware, the Transport Ordinance, 1957, was drafted after consultation between the three East African Governments and was designed to deal with various transport problems arising in East Africa as a whole. In actual fact, however, the position of each territory in relation to these problems is different. Thus, the immediate problems facing Tanganyika are, first competition on certain routes between motor vehicles and the Railway system and, secondly, the control of inland water transport on Lake Victoria. In Kenya, on the other hand, these two particular problems either do not arise or are relatively unimportant, the most urgent problem now facing the Kenya Government being uneconomic competition between private transport enterprises, a condition which does not at present exist in Tanganyika. All three problems are covered by the Transport Ordinance, 1957, but that Ordinance does not deal separately with the problem of uneconomic competition with the Railways and the problem of uneconomic competition between private transport enterprises: it would, therefore, be impossible to bring into effect those of its provisions which deal with the former problem without at the same time bringing into effect the provisions which deal with the latter. When, after the passage of the Transport Ordinance, 1957, consideration was given to the question of enforcing its provisions, it was felt that it was not only unnecessary but also undesirable to bring into being complicated machinery to deal with competition between private transport enterprises when such competition does not at present constitute a serious problem. It was therefore decided that the provisions of the Transport Ordinance should not be enforced but that the two problems now

facing the Territory should each be dealt with separately by an ad hoc ordinance. For these reasons the Inland Water Transport Ordinance, 1933, and the Carriage of Goods (Prohibition) (Amendment) Ordinance, 1933, were passed.

5. With regard to the Inland Water Transport Ordinance, you will note that there is no difference in principle between the Tanganyika legislation and that of Kenya - indeed there is almost complete literal uniformity. There is a difference in administrative machinery in that the Tanganyika Ordinance enables the licensing of inland water transport to be done locally instead of by the Transport Board contemplated by the Transport Ordinance. The reasons for this provision are, first, that Tanganyika has no present necessity for bringing the Transport Board into being and, secondly, that as the licensing of ships on Lake Victoria is a purely local problem it is considered that it should be administered locally. I would point out in this connection that the difference between the systems of the two territories in this respect is more apparent than real for, as you were informed by the Governor of Kenya in the fifth paragraph of his despatch referred to above, the Kenya Transport Licensing Board also contemplates delegation to a local officer of their authority to license lake vessels. As I informed you in my telegram No. 77 of the 15th of April, the Ordinance will not be brought into operation until the necessary rules have been made in Council. The Acting Attorney General has been requested to draft the rules in consultation with the Attorney Generals of Kenya and Uganda and, as soon as they have been drafted, the date on which they will be brought into force will be settled in consultation with the Governments of these

territories.

6. Finally, I would add that there has been no departure by Tanganyika from the understanding reached with Kenya and that it is the desire of this Government to maintain as far as possible full reciprocity between the two territories. It is considered, however, that reciprocity should not be expected to extend to the introduction of identical administrative machinery or to bringing into force provisions of the Transport Ordinance designed to deal with a problem which at present does not demand solution.

7. A copy of this despatch is being sent to the Government of Kenya and to the Secretary to the Conference of East African Governors.

I have the honour to be,

Sir,

Your most obedient,

humble servant,

(Sgd.) G. F. SAYERS

GOVERNOR'S DEPUTY.

(Draft approved by the Acting Governor)

territories.

6. Finally, I would add that there has been no departure by Tanganyika from the understanding reached with Kenya and that it is the desire of this Government to maintain as far as possible full reciprocity between the two territories. It is considered, however, that reciprocity should not be expected to extend to the introduction of identical administrative machinery or to bringing into force provisions of the Transport Ordinance designed to deal with a problem which at present does not demand solution.

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I have the honour to be,

Sir,

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humble servant,

(Sgd.) G. F. SAYERS

GOVERNOR'S DEPUTY.

(Draft approved by the Acting Governor)

Transport Licensing Ordinance

COLONY AND PROTECTORATE OF KENYA

GOVERNMENT NOTICE No. 245

THE TRANSPORT LICENSING ORDINANCE, 1937

REGULATIONS

IN EXERCISE of the powers conferred upon him by the Transport Licensing Ordinance, 1937, His Excellency the Governor in Council has been pleased to make the following Regulations:-

1. These Regulations may be cited as the Vehicles Licensing Regulations, 1938, and shall come into force on the first day of April, 1938. Short title and commencement.

2. In these Regulations, unless the context otherwise requires, the following expressions have the meaning hereby respectively assigned to them. Definitions.

"the Ordinance" means the Transport Licensing Ordinance, 1937; No. 40 of 1937.

"the Licensing Authority" means the Transport Licensing Board established by the Ordinance;

"licence" means a licence issued under the provisions of the Ordinance;

"application" means application for a licence and includes application for the variation of a licence;

"the holder of a licence" means the person to whom that licence was granted and issued;

"authorized vehicle" means any vehicle authorized to be used under a licence.

3. Every application for a licence or for the variation of a licence shall be in the appropriate form set out in the First Schedule to these Regulations. Applications

4. Every application shall be signed by the person requiring the licence and, if made by any corporate body or partnership firm, shall be signed by a person duly authorized in that behalf by such body, or a partner of the partnership firm, as the case may be. Signing of applications

5. An applicant shall not include in any application-- Certain vehicles not to be included in applications
(a) a vehicle specified in any licence held by him, unless the application is for a licence to replace the licence on which the vehicle is specified or is for the purpose of having the vehicle deleted from one licence and added to another licence,

COLONY AND PROTECTORATE OF KENYA

GOVERNMENT NOTICE No. 245

THE TRANSPORT LICENSING ORDINANCE, 1937

REGULATIONS

IN EXERCISE of the powers conferred upon him by the Transport Licensing Ordinance, 1937, His Excellency the Governor in Council has been pleased to make the following Regulations:—

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“the Ordinance” means the Transport Licensing Ordinance, 1937. No. 40 of 1937.

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“licence” means a licence issued under the provisions of the Ordinance;

“application” means application for a licence and includes application for the variation of a licence;

“the holder of a licence” means the person to whom that licence was granted and issued;

“authorized vehicle” means any vehicle authorized to be used under a licence.

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4. Every application shall be signed by the person requiring the licence and, if made by any corporate body or partnership firm, shall be signed by a person duly authorized in that behalf by such body, or a partner of the partnership firm, as the case may be. Signing of applications

5. An applicant shall not include in any application Certain vehicles not to be included in applications
(a) a vehicle specified in any licence held by him, unless the application is for a licence to replace the licence on which the vehicle is specified or is for the purpose of having the vehicle deleted from one licence and added to another licence,

1917

I have the honor to be
 advised that the
 Government of West Africa
 is desirous of having
 a copy of this report
 made available to the
 Government of West Africa
 and to the Secretary to the
 Conference of West African
 Governments.
 I have the honor to be
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 is desirous of having
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 a copy of this report
 made available to the
 Government of West Africa
 and to the Secretary to the
 Conference of West African
 Governments.

(24) G. F. 211.22

GOVERNOR'S OFFICE

(Draft approved by the Acting Governor)

- (b) a vehicle specified in any licence issued to him which has been suspended or revoked, during the period of such suspension or before the date when such revoked licence is expressed to expire, or
- (c) a vehicle removed by direction of the Licensing Authority under sub-section (3) or section 19 of the Ordinance from any licence held by the applicant during the currency of that licence.

Date of sub-
missions of
applications

6. (1) Subject to the provisions of sub-Regulation (2) of this Regulation, every application, other than an application for a variation which the Licensing Authority is, under the provisions of sub-section (2) of section 18 of the Ordinance, bound to grant, shall be sent to the Licensing Authority so as to reach it—

- (a) as regards applications relating to A or B licences not less than six weeks,
- (b) as regards application for C licences not less than four weeks,
- before the date on which it is desired that the licence shall take effect, and
- (c) as regards applications for a road service licence, not less than six weeks before the date on which it is desired to commence the service, or in the case of an application for a licence to continue a service already in operation, not less than six weeks before the date of expiry of the existing licence.

(2) In the case of licences for the year 1938, in respect of vehicles in use at the date of the coming into force of these Regulations, applications for such licences shall be sent to the Licensing Authority so as to reach it before the 14th day of May, 1938.

(3) Where the application is for an "A" or a "B" licence for the year 1938, and the applicant has carried on either wholly or mainly the business of a carrier of goods for hire or reward, he shall state in his application which of the vehicles in respect of which the application is made have been, or will have been, regularly employed by him in such business during the twelve months preceding the 14th day of May, 1938.

(4) An application for an exclusive licence may be sent to the Licensing Authority at any time

(5) Notwithstanding the provisions of this Regulation, the Licensing Authority may, in its discretion, accept and

deal with any application although such application has not been received within the time prescribed.

7. The Licensing Authority shall cause to be published in the Gazette, as occasion may require, a statement hereinafter called "Applications and Decisions" which shall contain (unless previously notified therein)—

Statement to be
published by
Licensing
Authority

- (1) a statement of all applications received;
- (2) a statement of all applications granted or refused;
- (3) any decision to revoke or suspend a licence;
- (4) any direction given under sub-section (3) of section 19 of the Ordinance.

Provided that paragraphs (1) and (2) of this Regulation shall not apply to applications for, or to the grant or refusal of, "C" licences.

8. (1) Every objection in respect of an application shall be in writing in the form set out in the Second Schedule to these Regulations and shall be signed by the person making it. If the objection is made by any body corporate or partnership firm, it shall be signed by a person duly authorized in that behalf by such body or a partner of the partnership firm as the case may be.

Notice of
objections.

(2) Every such objection shall be sent to the Licensing Authority so as to reach it not later than fourteen days after notice of the application has appeared in "Applications and Decisions" published under the provisions of Regulation 7 of these Regulations.

(3) A copy of every such objection shall be sent by the objector to the applicant at the same time as it is sent to the Licensing Authority.

(4) The Licensing Authority may at its discretion consider objections notwithstanding that the requirements of this Regulation have not been complied with.

9. The goods vehicle and road service licences to be issued under the provisions of the Ordinance shall be in the forms set out in the Third Schedule to these Regulations.

Forms of
licences

10. (1) The Licensing Authority shall, as soon as may be, cause to be issued to the holder of a licence a certificate, hereinafter referred to as an "Identity Certificate", in respect of each vehicle authorized to be used under the licence. Such certificate shall be in the form set out in the Fourth Schedule to these Regulations.

Identification of
authorized
vehicles

(2) The holder of a licence shall during such time as any vehicle is used under the licence, cause the appropriate Identity Certificate to be carried on such vehicle and maintained in a clean and legible condition.

Return of licences and certificates on variation.

11. For the purpose of a variation of a licence the holder, if so required by the Licensing Authority, shall return the licence to the Licensing Authority and, on the issue of a variation, shall return the Identity Certificate in respect of any vehicle to be deleted from the licence.

Fees

12. (1) The fees for licences shall be as follows:—

- (a) For an "A" Licence per vehicle: Sh. 20.
- (b) For a "B" Licence per vehicle: Sh. 20.
- (c) For a "C" Licence per vehicle: Sh. 2/50.
- (d) For a Road Service Licence, per vehicle: Sh. 20.
- (e) For a Short Term Licence in respect of a goods vehicle or passenger carrying vehicle issued under section 6 (2) of the Ordinance, per vehicle: twenty-five per centum of the fee payable for an annual Goods Vehicle, or Road Service Licence, of the class required.
- (f) For a licence for a vehicle owned by the Government of the Colony or by the armed forces of the Crown or by a Local Native Council or a variation of any such licence: free.

(2) The fee payable for the variation of a licence shall, subject to paragraph (f) of sub-Regulation (1) of this Regulation—

- (a) where the application is for the addition of any vehicle, be the same fee per vehicle as would be payable under sub-Regulation (1) of this Regulation for a licence for such vehicle;
- (b) where the application is for the deletion of any vehicle or vehicles and no vehicle is to be added, be Sh. 2/50 for the variation.

Temporary re-issuance of authorized vehicles.

13. Where a motor vehicle specified in a licence (hereinafter referred to as "the specified vehicle") has been destroyed, rendered unfit for service, or withdrawn from service for overhaul or repair and the holder of the licence desires a licence authorising, until it is replaced or rendered fit for service again, the use in its place of a vehicle in his possession or to be hired without a driver (hereinafter referred to as "the

substituted vehicle") which vehicle he is not authorized to use under his existing licence, and in the case of a goods vehicle the unladen weight of which does not exceed by more than 10 cwt. or 25 per cent, whichever may be the greater, the unladen weight of the specified vehicle, the provisions of Regulation 6 of these Regulations shall not apply and the application for such licence may be in the form of a letter explaining the circumstances and accompanied by the Identity Certificate for the specified vehicle.

Notification of change of address.

14. If during the currency of the licence the holder thereof changes his address he shall, within seven days after the date of such change, notify such change to the Licensing Authority.

Issue of duplicate licences and other documents.

15. (1) If any licence or document issued by the Licensing Authority has during the currency thereof been lost, destroyed, or defaced, the holder thereof shall forthwith notify the Licensing Authority who shall, if satisfied that it has been so lost, destroyed, or defaced, cause a duplicate (so marked) to be issued to such holder and such duplicate shall have the same effect as the original licence or document: Provided that, in the case of any licence or document which has been defaced the duplicate shall be so issued only after the surrender of the original licence or document to the Licensing Authority or to any person specified by the Licensing Authority.

(2) Where a licence or document which has been lost and replaced is recovered the original licence or document shall be returned to the Licensing Authority forthwith.

(3) The fees to be paid for a duplicate licence or document shall be ten per centum of the fee payable for the original licence or document, with a minimum fee of Sh. 1.

Return of licences and certificates to Licensing Authority

16. If a licence ceases to have effect, otherwise than by the effluxion of time, or is suspended or revoked or if a direction has been given under sub-section (3) of section 19 of the Ordinance in respect of a licence, the holder thereof shall, within seven days after a notice to that effect has been delivered to him personally or sent to him by registered post at the address shown in his application or last notified in accordance with Regulation 14 of these Regulations, send or deliver such licence together with the identity certificates issued under the licence to the Licensing Authority for retention during the time of suspension, or for cancellation or alteration, as the case may be, and the Licensing Authority shall, on the removal of a suspension, return the licence and Identity Certificates to the holder.

(2) The holder of a licence shall during such time as any vehicle is used under the licence, cause the appropriate Identity Certificate to be carried on such vehicle and maintained in a clean and legible condition.

11. For the purpose of a variation of a licence the holder, if so required by the Licensing Authority, shall return the licence to the Licensing Authority and, on the issue of a variation, shall return the Identity Certificate in respect of any vehicle to be deleted from the licence.

12. (1) The fees for licences shall be as follows:—

- (a) For an "A" Licence per vehicle: Sh. 20.
- (b) For a "B" Licence per vehicle: Sh. 20.
- (c) For a "C" Licence per vehicle: Sh. 2/50.
- (d) For a Road Service Licence, per vehicle: Sh. 20.
- (e) For a Short Term Licence in respect of a goods vehicle or passenger carrying vehicle issued under section 6 (2) of the Ordinance, per vehicle: twenty-five per centum of the fee payable for an annual Goods Vehicle, or Road Service Licence, of the class required.
- (f) For a licence for a vehicle owned by the Government of the Colony or by the armed forces of the Crown or by a Local Native Council, or a variation of any such licence: free.

(2) The fee payable for the variation of a licence shall, subject to paragraph (f) of sub-Regulation (1) of this Regulation—

- (a) where the application is for the addition of any vehicle, be the same fee per vehicle as would be payable under sub-Regulation (1) of this Regulation for a licence for such vehicle;
- (b) where the application is for the deletion of any vehicle or vehicles and no vehicle is to be added, be Sh. 2/50 for the variation.

13. Where a motor vehicle specified in a licence (hereinafter referred to as "the specified vehicle") has been destroyed, rendered unfit for service, or withdrawn from service for overhaul or repair and the holder of the licence desires a licence authorising, until it is replaced or rendered fit for service again, the use in its place of a vehicle in his possession or to be hired without a driver (hereinafter referred to as "the

substituted vehicle") which vehicle he is not authorized to use under his existing licence, and in the case of a goods vehicle the unladen weight of which does not exceed by more than 10 cwt. or 25 per cent, whichever may be the greater, the unladen weight of the specified vehicle, the provisions of Regulation 6 of these Regulations shall not apply and the application for such licence may be in the form of a letter explaining the circumstances and accompanied by the Identity Certificate for the specified vehicle.

14. If during the currency of the licence the holder thereof changes his address he shall, within seven days after the date of such change, notify such change to the Licensing Authority.

15. (1) If any licence or document issued by the Licensing Authority has during the currency thereof been lost, destroyed, or defaced, the holder thereof shall forthwith notify the Licensing Authority who shall, if satisfied that it has been so lost, destroyed, or defaced, cause a duplicate (so marked) to be issued to such holder and such duplicate shall have the same effect as the original licence or document: Provided that, in the case of any licence or document which has been defaced the duplicate shall be so issued only after the surrender of the original licence or document to the Licensing Authority or to any person specified by the Licensing Authority.

(2) Where a licence or document which has been lost and replaced is recovered the original licence or document shall be returned to the Licensing Authority forthwith.

(3) The fees to be paid for a duplicate licence or document shall be ten per centum of the fee payable for the original licence or document, with a minimum fee of Sh. 1.

16. If a licence ceases to have effect, otherwise than by the effluxion of time, or is suspended or revoked or if a direction has been given under sub-section (3) of section 19 of the Ordinance in respect of a licence, the holder thereof shall, within seven days after a notice to that effect has been delivered to him personally or sent to him by registered post at the address shown in his application or last notified in accordance with Regulation 14 of these Regulations, send or deliver such licence together with the identity certificates issued under the licence to the Licensing Authority for retention during the time of suspension, or for cancellation or alteration, as the case may be, and the Licensing Authority shall, on the removal of a suspension, return the licence and Identity Certificates to the holder.

Return of licences and certificates on variation.

Fees

Notification of change of address.

Issue of duplicate licences and other documents.

Return of licences and certificates to Licensing Authority

Temporary replacement of authorized vehicles.

Vehicles passing out of possession of holder of licence.

17. If during the currency of a licence the holder thereof ceases to be the owner of any vehicle specified therein he shall, within seven days thereafter, notify the Licensing Authority and return the licence to it for amendment or cancellation as the case may be together with the relative Identity Certificate.

Death, bankruptcy, etc., of holder of licence.

18. Where, owing to the death, incapacity, bankruptcy or liquidation of the holder of a licence or to the appointment of a receiver or manager in relation to his business, such holder ceases to be the user of the vehicles authorized to be used by him under the licence, the person carrying on the business of the holder shall be deemed to be the holder of the licence if—

(a) within fourteen days thereafter notice that the holder has ceased to be the user of those vehicles and the reason therefor, and the name of the person by whom the business is being carried on, be sent to the Licensing Authority, and

(b) within one month after the sending of such notice an application for a new licence be duly made.

Provided that the period during which such person shall be deemed to be the holder of the licence shall in no case extend beyond the date on which the licence would have expired but for the occurrence of the said event and shall terminate immediately the application is disposed of.

Powers of inspection.

19. (1) Any person authorized in writing by the Licensing Authority, or by a police officer not below the rank of superintendent, may at all reasonable times require the production, for the purposes of inspection, of any licence or Identity Certificate issued under the provisions of the Ordinance.

(2) Any person who fails or refuses to produce any such licence or Identity Certificate when required so to do by any person so authorized shall be guilty of an offence against these Regulations.

By Command of His Excellency the Governor in Council.

Nairobi.

This 25th day of March, 1938.

R. W. BAKER-BEALL,

Clerk to the Executive Council.

FIRST SCHEDULE
APPLICATION FOR A PUBLIC "A" CARRIER'S
LICENCE

THE TRANSPORT LICENSING ORDINANCE, 1937

Application for a Public "A" Carrier's Licence

To The Licensing Authority,

P.O. Box No. 112,

Nairobi.

I hereby apply for the grant of a Public Carrier's Licence (in continuance of Public Carrier's Licence No.) in respect of the vehicles described in the annexed Schedule, and I hereby declare that to the best of my knowledge and belief all the statements in this application and the annexed Schedule which has been signed by me are true.

Date

Signature

1. Full name of applicant
2. Address
3. Base or centre from which vehicles will normally be used for the carriage of goods for hire or reward (if other than address above)
4. Does applicant use or intend to use any of the vehicles in the annexed Schedule for the carriage of goods in connexion with any trade or business carried on by him other than that of carrier of goods?
5. Is the application for a licence in continuation of an existing licence issued to a carrier whose business the applicant has acquired or intends to acquire? If so, state:—
 - (a) Name of that carrier
 - (b) Number of existing licence issued to that carrier
6. Facilities which applicant proposes to provide:—
 - (a) Class or description of goods to be carried
 - (b) Districts in which or places between which the vehicles will normally be used
7. Details of rates proposed to be charged by applicant:

Schedule

Reg. No. of vehicle	Make	Horse power	Engine No.	Whether petrol-driven or otherwise	Weight in tons	Carrying capacity	Whether pneumatic tyres or otherwise	Size of tyres

APPLICATION FOR A LIMITED "B" CARRIER'S LICENCE

THE TRANSPORT LICENSING ORDINANCE, 1937
Application for a Limited "B" Carrier's Licence

To The Licensing Authority,
 P.O. Box No. 112,
 Nairobi.

I hereby apply for the grant of a Limited Carrier's Licence (in continuation of Limited Carrier's Licence No.) in respect of the vehicles described in the annexed Schedule, and I hereby declare that to the best of my knowledge and belief all the statements in this application and the annexed Schedule which has been signed by me are true.

Date

Signature

1. Full name of applicant
2. Address
3. Base or centre from which vehicles will normally be used for the carriage of goods for hire or reward (if other than address above)
4. (a) Does applicant use or intend to use any of the vehicles in the annexed Schedule for the carriage of goods in connexion with any trade or business carried on by him other than that of carrier?
- (b) If so, what is the nature of the other business?

5. Is the application for a licence in continuation of an existing licence issued to a carrier whose business the applicant has acquired or intends to acquire?

..... If so, state:—

(a) Name of that carrier

(b) Number of existing licence issued to that carrier

6. Facilities which applicant proposes to provide for hire or reward:—

(a) Are these the same as those authorized by applicant's existing licence numbered as above?

(b) (i) Class or description of goods to be carried for hire or reward

(ii) Districts in which or places between which the vehicles will normally be used for hire or reward. (This information may conveniently be given as a radius in miles from applicant's base.)

(iii) Does applicant want to be allowed to use the vehicles for hire or reward elsewhere than in (ii)? If so, to what extent and where

(If the answer to (a) is "No," give the information asked for in (b) (i), (ii) and (iii).)

7. Details of rates proposed to be charged by applicant

.....

Schedule		Size of tyres
Whether pneumatic tyres or otherwise	Carrying capacity	
Weight unladen	Whether pneumatic tyres or otherwise	
Engine No.	Horse power	
Make	Reg. No. of vehicle	

APPLICATION FOR A PRIVATE "C" CARRIER'S
LICENCE

THE TRANSPORT LICENSING ORDINANCE, 1937
Application for a Private "C" Carrier's Licence

To The Licensing Authority,
P.O. Box No. 112,
Nairobi.

I hereby make application for a Private Carrier's Licence
(in continuation of Private Carrier's Licence No.)
in respect of the vehicles described in the annexed Schedule
and I hereby declare that to the best of my knowledge and
belief all the statements in this application are true.

Date

Signature

1. Full name of applicant (*If a firm, give full names of
all partners*)
2. Address in full
3. Each vehicle included in this application is to be used
for carriage of goods for or in connexion with the
business of (*state nature of business*)
carried on by the applicant and is not to be used
for the carriage of goods for hire or reward.
4. (a) State number of vehicles which applicant desires to
take on hire without driver under section 5 (6) (b)
of the Ordinance. (~~Motor~~ vehicles to be hired in
case of breakdowns and driven by applicant's
drivers should be included here.):—
Motor Vehicles No. (*give number only*)
- (b) State number of all trailers to be licensed including
the trailer portions of articulated vehicles and trailers
to be taken on hire without driver:—
Trailers No. (*give number only*)

Schedule	Reg. No. of vehicle	Make	Horse-power	Engine No.	Whether petrol-driven or otherwise	Carrying capacity	Weight laden	Whether pneumatic tyres or otherwise	Size of tyres

APPLICATION FOR A ROAD SERVICE LICENCE

THE TRANSPORT LICENSING ORDINANCE, 1937

Application for a Road Service Licence

To The Licensing Authority,
P.O. Box No. 112,
Nairobi.

I hereby apply for a Road Service Licence (in continuation of Road Service Licence No.) in respect of the vehicles of the type described in the annexed Schedule, and I hereby declare that to the best of my knowledge and belief all the statements in this application and the annexed Schedule which has been signed by me are true.

Date

Signature

1. Full name of applicant
2. Address
3. Particulars of the service or services proposed to be operated by applicant, including, in the case of regular services, the time-tables of such services, and in any other case the frequency of such services and the times expected to be taken on the journeys proposed
4. Particulars of the fares proposed to be charged in respect of the service or services the subject of this application
5. Is the application for a licence in continuation of an existing licence issued to another person whose business the applicant has acquired or intends to acquire? If so, state:—
(a) Name of that person
- (b) Number of existing licence issued to that person
6. Is the licence required for a public service vehicle? If so, attach hereto duly completed an application form for an "A" or "B" licence, whichever is applicable to this application.

Schedule

Reg. No. of vehicle	Make	Horse-power	Engine No.	Whether petrol-driven or otherwise	Weight unladen	Passenger-carrying capacity	Whether pneumatic tyres or otherwise	Size of tyres

APPLICATION FOR AN EXCLUSIVE LICENCE
THE TRANSPORT LICENSING ORDINANCE, 1937

Application for an Exclusive Licence

To The Licensing Authority,

P.O. Box No. 112,

Nairobi.

Application for an Exclusive Licence

(This form must never be returned alone but must have attached to it the application form appropriate to the licence ("A", "B" or Road Service Licence) in respect of which this application is made.)

I wish the attached application to be considered as an application for an Exclusive Licence to be granted to me for a period of years.

Date

Signature

APPLICATION FOR A SHORT TERM LICENCE

THE TRANSPORT LICENSING ORDINANCE, 1937

To The Licensing Authority,

P.O. Box No. 112,

Nairobi.

Application for a Short Term Licence

(This form must never be returned alone, but must have attached to it the application form appropriate to the licence ("A", "B" or Road Service Licence) in respect of which this application is made)

I wish the attached application to be considered as an application for a Short Term Licence for the period—

to

The reasons why a Short Term Licence is sought instead of a licence for the normal currency are:—

Date

Signature

APPLICATION FOR VARIATION OF PUBLIC "A"/
LIMITED "B" CARRIER'S LICENCE

THE TRANSPORT LICENSING ORDINANCE, 1937

To The Licensing Authority,

P.O. Box No. 112,

Nairobi.

*Application for Variation of Public "A"/Limited "B"
Carrier's Licence*

I hereby apply for the variation of the undermentioned licence, and declare that to the best of my knowledge and belief, the statements made below are true and correct.

Date

Signature

1. Full name of applicant

2. Address

3. "A"/"B" Carrier's Licence to be varied: No.

4. (a) Please take off my licence these motor vehicles:—
Motor vehicles

Regn. No.

Unladen weight

Carrying capacity

4. (b) I apply to have added to my licence these motor vehicles owned or in possession under hire-purchase agreement (or to be acquired or to be possessed under hire-purchase agreement):—

(i) Motor vehicles

Regn. No.

Unladen weight

Carrying capacity

(ii) Motor vehicles to be acquired

Regn. No.

Unladen weight

Carrying capacity

5. (a) Please take off my licence these motor vehicles authorized to be hired without driver under section 5 (6) (b) of the Ordinance:—

Motor vehicles

Regn. No.

Unladen weight

Carrying capacity

5. (b) I apply to have added to my licence these motor vehicles intended to be hired without driver under section 5 (6) (b) of the Ordinance:—

Motor vehicles
 Regn. No.
 Unladen weight
 Carrying capacity

6. (a) Please take off my licence these trailers:—

Trailers:—
 Regn. No.
 Unladen weight
 Carrying capacity

6. (b) I apply to have added to my licence these trailers:

Trailers:—
 Regn. No.
 Unladen weight
 Carrying capacity

7. (Only for variation of conditions of "B" Licences.)

Please vary the conditions attached to my "B" Licence so that they will read

8. (Only for variations of "A" or "B" Licences which will increase the number or the aggregate unladen weight of authorized vehicles.)

(a) Facilities which applicant proposes to provide:—

(i) Class or description of goods to be carried for hire or reward

(ii) Districts in which or places between which vehicles will normally be used for hire or reward (This information may conveniently be given as a radius in miles from applicant's base)

(iii) Details of rates proposed to be charged by applicant

(b) Is the proposed increase due to the applicant having acquired or being about to acquire the business of another carrier? If so, state:—

(i) Name of that carrier

(ii) Number of existing licence issued to that carrier and date of expiry

9. Details of any other application which has been or is being made for a Carrier's Licence

APPLICATION FOR VARIATION OF PRIVATE "C"
 CARRIER'S LICENCE, AND NOTICE UNDER
 SECTION 5 (7) OF THE ORDINANCE

THE TRANSPORT LICENSING ORDINANCE, 1937

Application for Variation of Private "C" Carrier's Licence,
 and Notice under Section 5 (7) of the Ordinance

To The Licensing Authority,

P.O. Box No. 112,

Nairobi.

I hereby apply for the variation of the undermentioned licence, and declare that to the best of my knowledge and belief the statements made below are true and correct.

Date

Signature

1. Full name of applicant

2. Address

3. Private "C" Carrier's Licence to be varied: No.

4. (a) Please take off my licence these motor vehicles:—
 Regn. No.

4. (b) Please add to my licence these motor vehicles acquired, or now in possession under hire-purchase agreement:—
 Regn. No.

5. Please increase the number of motor vehicles authorized to be hired without driver under section 5 (6)

(b) of the Ordinance:—

Motor vehicles:—

From (give number now authorized)

to (give number required)

6. Please increase the number of trailers authorized to be used under my licence:—

Trailers:—

From (give number now authorized)

to (give number required)

APPLICATION FOR VARIATION OF A ROAD
SERVICE LICENCE

THE TRANSPORT LICENSING ORDINANCE, 1937

To The Licensing Authority,
P.O. Box No. 112,
Nairobi.

Application for Variation of a Road Service Licence

I hereby apply for the variation of the undermentioned licence and declare that, to the best of my knowledge and belief, the statements made below are true and correct.

Date

Signature

1 Full name of applicant

2 Address

3 Road Service Licence to be varied: No.

4 (a) Please take off my licence these motor vehicles:—

Motor Vehicles

Regn. No.

Unladen weight

Carrying capacity

4 (b) I apply to have added to my licence these motor vehicles owned or in possession under hire-purchase agreement (or to be acquired or to be possessed under hire-purchase agreement):—

(i) Motor vehicles

Regn. No.

Unladen weight

Carrying capacity

(ii) Motor Vehicles to be acquired

Regn. No.

Unladen weight

Carrying capacity

5. Please vary the conditions attached to my licence so that they will read

6. (Only for variations of a Road Service Licence which will increase the number or the aggregate carrying capacity of the authorized vehicles).

(a) Particulars of the service or services proposed to be operated by applicant including in the case of regular services the time tables of such services, and in any other case the frequency of such services and the times expected to be taken on the journeys proposed.

(b) Particulars of the fares proposed to be charged in respect of the service or services the subject of this application.

(c) Is the proposed increase due to the applicant having acquired or being about to acquire the business of another carrier? If so, state:—

(i) Name of that carrier

(ii) Number of existing licence issued to that carrier and date of expiry

7. Details of any other application which has been or is being made for a Carrier's Licence.

SECOND SCHEDULE

THE TRANSPORT LICENSING ORDINANCE, 1937

Notice of Objection

To The Licensing Authority,

P.O. Box No. 112,

Nairobi.

Notice of Objection to the Application made by
and numbered
in Applications and Decisions dated

I/We, already
providing transport for the carriage of goods/persons—

'in the district of

'between and

'by virtue of the Transport Licensing Ordinance, 1937 (Public Carrier's "A"/Limited Carrier's "B"/Road Service/Inland Water Transport) Licence No.

'and in particular the following transport facilities

object to the above application on the ground that—

'(1) suitable transport facilities (namely, the services of the present objector and of)
are already in excess of requirements.

(2) suitable transport facilities (namely, the services of the present objector and of) would, if this application were granted, be in excess of requirements.

(3) the conditions attached to a licence held by the applicant have not been complied with in the following respects, namely

*My/Our objection is particularly directed—

'(a) to the inclusion in the licence of the following goods' vehicles' (or any vehicle which may be substituted for any of those vehicles)

'(b) to the grant of the licence unless conditions to the following effect are attached to it:—

'(c) (in respect of applications for the variation of conditions attached to licences) to the proposed variation in so far as it would permit

(d) In respect of applications for an Exclusive Licence:—

State reasons

A copy of this objection has been sent to the Applicant.

Signature of Objector

Address

Date

Note.—On application for the grant or variation of an "A" Licence, the Licensing Authority is not bound to take into consideration objections made by a person who holds a "B" Licence and does not also hold an "A" Licence.

¹ One of these may be omitted.

² Omit if inapplicable.

³ Insert here particulars of facilities provided by objector.

⁴ Omit one of these paragraphs.

⁵ If applicable, give details of alleged failures. A full statement may obviate the need of an inquiry.

⁶ Omit all or any of these which are inapplicable.

⁷ The vehicles need not be specified by Registration Number but may be indicated by such phrases as: "Vehicles additional to those already authorized"; "3 motor vehicles and 2 trailers in possession"; "2 motor vehicles to be hired"; "1 trailer to be acquired", etc.

THIRD SCHEDULE

(In the case of Short Term Licences the forms in this Schedule will be used, but the licence will be endorsed "Short Term Licence".)

THE TRANSPORT LICENSING ORDINANCE, 1937

Public "A" Carrier's Licence

Licence No. "A" issued to—

Number of Vehicles.

--

--

Fees payable.

Sh.

Date of Issue

Licensing Authority.

Public "A" Carrier's Licence

The Licensing Authority hereby authorizes the person to whom this Licence is issued to use up to and including the day of, 193..., the vehicles described in the First Schedule attached hereto.

Subject to—

- (a) the payment to the of the fees shown in the ninth column of the said Schedule, the receipt of which will be acknowledged on the respective Identity Certificates;
- (b) the provisions of the Transport Licensing Ordinance, 1937, and of any Regulations made thereunder; and
- (c) the special conditions endorsed on the Second Schedule attached hereto.

(To be detached and sent to the Licensing Authority.)

To The Licensing Authority,

P.O. Box No. 112,

Nairobi.

I hereby acknowledge the receipt of Carrier's Licence

No.

Signature

Address

Date

First Schedule				Second Schedule				
Reg. No. of vehicle	Make	Horse-power	Engine No.	Power fuel	Weight in laden	Carrying capacity	Type and size of Tyres	Fee payable

Second Schedule
CONDITIONS

THE TRANSPORT LICENSING ORDINANCE, 1937

Limited "B" Carrier's Licence

Licence No. "B" Issued to—

Number of Vehicles.

Fees payable.

Sh.

Date of Issue

Licensing Authority.

Limited "B" Carrier's Licence

The Licensing Authority hereby authorizes the person to whom this licence is issued to use, up to and including the day of 193..., the vehicles described in the First Schedule attached hereto.

Subject to—

- the payment to the of the fees shown in the ninth column of the said Schedule, the receipt of which will be acknowledged on the respective Identity Certificates;
- the provisions of the Transport Licensing Ordinance, 1937, and of any Regulations made thereunder; and
- the special conditions endorsed on the Second Schedule attached hereto.

(To be detached and sent to the Licensing Authority.)

To The Licensing Authority.

P.O. Box No. 112,

Nairobi.

I hereby acknowledge the receipt of Carrier's Licence No.

Signature

Address

Date

First Schedule				Second Schedule				
Reg. No. of vehicle	Make	Horse-power	Engine No	Power type	Weight unladen	Carrying capacity	Type and size of tyres	Fee payable

Second Schedule
CONDITIONS

THE TRANSPORT LICENSING ORDINANCE, 1937
Private "C" Carrier's Licence

Licence No. "C" Issued to—

Number of Vehicles.

Fees payable.

Sh.

Date of Issue

.....
Licensing Authority.

Private "C" Carrier's Licence

The Licensing Authority hereby authorizes the person to whom this Licence is issued to use, up to and including the day of 193.... the vehicles described in the First Schedule attached hereto.

Subject to—

- (a) the payment to the of the fees shown in the ninth column of the said Schedule, the receipt of which will be acknowledged on the respective Identity Certificates;
- (b) the provisions of the Transport Licensing Ordinance, 1937, and of any Regulations made thereunder; and
- (c) the special conditions endorsed on the Second Schedule attached hereto.

.....
(To be detached and sent to the Licensing Authority.)

To The Licensing Authority,
P.O. Box No. 112,
Nairobi.

I hereby acknowledge the receipt of Carrier's Licence
No.

Signature

Address

Date

First Schedule		Second Schedule	
Reg. No. of vehicle	Make	Horse power	Engine No.
		Prover fuel	Weight unladen
		Carrying capacity	Type and size of tyre
			Fee payable

THE TRANSPORT LICENSING ORDINANCE, 1937

Variation of Licence No. Issued to—

Serial No.

Fee payable.

Number of additional vehicles

Number of vehicles deleted.

Date of Issue of Variation

Licensing Authority.

Subject to the payment to the
 of the fee of Sh. the Licensing Authority hereby
 varies the above Licence as follows:—

Vehicles deleted therefrom

.....

Vehicles added thereto

.....

N.B.—This Variation must be attached to the licence to which it relates.

.....

FOURTH SCHEDULE
THE TRANSPORT LICENSING ORDINANCE, 1937
Identity Certificate

Serial No.....
 Fee paid

This is to
 certify that the
 vehicle described in this
 certificate is an authorized
 vehicle for the year

.....
 under the Transport Licensing Board's
 Licence No. issued to—
 Name

Address

Reg. No. of Vehicle

Make

Carrying Capacity

.....

Station Issued by

Date *for Licensing Authority.*

N.B.—In the case of a vehicle in respect of which a Short Term Licence has been issued, the above certificate will be varied by substituting the words "for the period from to....." for the words "for the year".

G. O.

C. D.
R 20 APR
D 21

38542/38.

15-73

Mr. Constable White 5/4/38.

Mr. Dato
Mr. Dawo
An Pashin
20.4
9 19/4

Sir H. Moore.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Parly. U.S. of S.

Parly. U.S. of S.

Secretary of State.

DOWNING STREET.

26th April, 1938.

DRAFT. for consen.

Sir,

KENYA:

NO. 239

Governor.

I have etc. to acknowledge

the receipt of your despatch No. 18

(2) of the 12th of January and to

inform you that the power of

disallowance will not be exercised

in respect of Ordinance No. 11

of 1937 entitled "An Ordinance to

Provide for the Co-ordination and

Control of Means of, and Facilities

for, Transport".

2. I have noted that under

Section 20(1) of the Ordinance

power is given to any Police officer

or authorized person to stop

a vehicle. This power should, I

FURTHER ACTION.

C. O.

- Mr.
- Mr.
- Mr.
- Sir H. Moore.
- Sir G. Tomlinson.
- Sir C. Bottomley.
- Sir J. Shuckburgh
- Permi. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

that as a matter of drafting Section 15
~~(dealing with water transport licences)~~
 should have been mentioned in
 Section 12(3), and that Section 15
 should have been made subject to
 Section. 12.

DRAFT.

(this is not
 proposed.
 v. para 4 of
 No 13)

29/8
11/13/4

(v. 6 or
42257/1/58 T.T.)

FURTHER ACTION.

(5)

I have, etc.
 I request that these points
 may be considered with a view to
 the amendment of the Ordinance
 at a convenient opportunity.
 Such an opportunity may
 possibly arise if it is found
 necessary to amend the
 provisions of the Ordinance
 to show in order to bring
 them into line with the fresh
 legislation for the control of
 shows which ^{has now been} introduced
 to introduce ^{passed} ~~it is introduced~~ ^{shortly} in the U.K.
 Reference in this connection
 is invited to para 2 of
 my dep. N. 261 of the
 of March.

I have etc.
 (Signed) W. ORMSBY GORE

SUPPLEMENT No. 13

COLONY AND PROTECTORATE OF KENYA



Supplement to the Official Gazette

Proclamations, Rules and Regulations
(No 13)

Vol. XL—No. 18

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GOVERNMENT NOTICE NO. 245

THE TRANSPORT LICENSING ORDINANCE, 1937
REGULATIONS

IN EXERCISE of the powers conferred upon him by the Transport Licensing Ordinance, 1937, His Excellency the Governor in Council has been pleased to make the following Regulations

1. These Regulations may be cited as the Vehicles Licensing Regulations, 1938, and shall come into force on the first day of April, 1938. Short title and commencement.

2. In these Regulations, unless the context otherwise requires, the following expressions have the meaning hereby respectively assigned to them— Definitions

"the Ordinance" means the Transport Licensing Ordinance, 1937. No. 40 of 1937.

"the Licensing Authority" means the Transport Licensing Board established by the Ordinance.

"licence" means a licence issued under the provisions of the Ordinance.

"application" means application for a licence and includes application for the variation of a licence

"the holder of a licence" means the person to whom that licence was granted and issued.

"authorized vehicle" means any vehicle authorized to be used under a licence.

3. Every application for a licence or for the variation of a licence shall be in the appropriate form set out in the First Schedule to these Regulations. Applications

4. Every application shall be signed by the person requiring the licence and, if made by any corporate body or partnership firm, shall be signed by a person duly authorized in that behalf by such body, or a partner of the partnership firm, as the case may be. Signing of applications

5. An applicant shall not include in any application— Certain vehicles not to be included in applications.
(a) a vehicle specified in any licence held by him, unless the application is for a licence to replace the licence on which the vehicle is specified or is for the purpose of having the vehicle deleted from one licence and added to another licence.

GOVERNMENT NOTICE No. 245

THE TRANSPORT LICENSING ORDINANCE, 1937

REGULATIONS

IN EXERCISE of the powers conferred upon him by the Transport Licensing Ordinance, 1937, His Excellency the Governor in Council has been pleased to make the following Regulations:—

1. These Regulations may be cited as the Vehicles Licensing Regulations, 1938, and shall come into force on the first day of April, 1938. Short title and commencement.

2. In these Regulations, unless the context otherwise requires, the following expressions have the meaning hereby respectively assigned to them— Definitions.

“the Ordinance” means the Transport Licensing Ordinance, 1937; No. 40 of 1937.

“the Licensing Authority” means the Transport Licensing Board established by the Ordinance;

“licence” means a licence issued under the provisions of the Ordinance,

“application” means application for a licence and includes application for the variation of a licence;

“the holder of a licence” means the person to whom that licence was granted and issued;

“authorized vehicle” means any vehicle authorized to be used under a licence.

3. Every application for a licence or for the variation of a licence shall be in the appropriate form set out in the First Schedule to these Regulations. Applications.

4. Every application shall be signed by the person requiring the licence and, if made by any corporate body or partnership firm, shall be signed by a person duly authorized in that behalf by such body, or a partner of the partnership firm, as the case may be. Signing of applications.

5. An applicant shall not include in any application— Certain vehicles not to be included in applications.
(a) a vehicle specified in any licence held by him, unless the application is for a licence to replace the licence on which the vehicle is specified or is for the purpose of having the vehicle deleted from one licence and added to another licence,

- (b) a vehicle specified in any licence issued to him which has been suspended or revoked, during the period of such suspension or before the date when such revoked licence is expressed to expire, or
- (c) a vehicle removed by direction of the Licensing Authority under sub-section (3) or section 19 of the Ordinance from any licence held by the applicant during the currency of that licence.

Date of sub-
missions of
applications

6. (1) Subject to the provisions of sub-Regulation (2) of this Regulation, every application, other than an application for a variation which the Licensing Authority is, under the provisions of sub-section (2) of section 18 of the Ordinance, bound to grant, shall be sent to the Licensing Authority so as to reach it—

- (a) as regards applications relating to A or B licences not less than six weeks,
- (b) as regards application for C licences not less than four weeks,
- before the date on which it is desired that the licence shall take effect, and
- (c) as regards applications for a road service licence, not less than six weeks before the date on which it is desired to commence the service, or in the case of an application for a licence to continue a service already in operation, not less than six weeks before the date of expiry of the existing licence.

(2) In the case of licences for the year 1938, in respect of vehicles in use at the date of the coming into force of these Regulations, applications for such licences shall be sent to the Licensing Authority so as to reach it before the 14th day of May, 1938.

(3) Where the application is for an "A" or a "B" licence for the year 1938, and the applicant has carried on either wholly or mainly the business of a carrier of goods for hire or reward, he shall state in his application which of the vehicles in respect of which the application is made have been, or will have been, regularly employed by him in such business during the twelve months preceding the 14th day of May, 1938.

(4) An application for an exclusive licence may be sent to the Licensing Authority at any time.

(5) Notwithstanding the provisions of this Regulation, the Licensing Authority may, in its discretion, accept and

deal with any application although such application has not been received within the time prescribed.

7. The Licensing Authority shall cause to be published in the Gazette, as occasion may require, a statement hereinafter called "Applications and Decisions" which shall contain (unless previously notified therein)—

Statement to be published by Licensing Authority.

- (1) a statement of all applications received;
- (2) a statement of all applications granted or refused;
- (3) any decision to revoke or suspend a licence;
- (4) any direction given under sub-section (3) of section 19 of the Ordinance:

Provided that paragraphs (1) and (2) of this Regulation shall not apply to applications for, or to the grant or refusal of, "C" licences.

8. (1) Every objection in respect of an application shall be in writing in the form set out in the Second Schedule to these Regulations and shall be signed by the person making it. If the objection is made by any body corporate or partnership firm, it shall be signed by a person duly authorized in that behalf by such body or a partner of the partnership firm as the case may be.

Notice of objections.

(2) Every such objection shall be sent to the Licensing Authority so as to reach it not later than fourteen days after notice of the application has appeared in "Applications and Decisions" published under the provisions of Regulation 7 of these Regulations.

(3) A copy of every such objection shall be sent by the objector to the applicant at the same time as it is sent to the Licensing Authority.

(4) The Licensing Authority may at its discretion consider objections notwithstanding that the requirements of this Regulation have not been complied with.

9. The goods vehicle and road service licences to be issued under the provisions of the Ordinance shall be in the forms set out in the Third Schedule to these Regulations.

Forms of licences.

10. (1) The Licensing Authority shall, as soon as may be, cause to be issued to the holder of a licence a certificate, hereinafter referred to as an "Identity Certificate", in respect of each vehicle authorized to be used under the licence. Such certificate shall be in the form set out in the Fourth Schedule to these Regulations.

Identity of authorized vehicles.

(2) The holder of a licence shall during such time as any vehicle is used under the licence, cause the appropriate Identity Certificate to be carried on such vehicle and maintained in a clean and legible condition.

11. For the purpose of a variation of a licence the holder, if so required by the Licensing Authority, shall return the licence to the Licensing Authority and, on the issue of a variation, shall return the Identity Certificate in respect of any vehicle to be deleted from the licence.

12. (1) The fees for licences shall be as follows:—

(a) For an "A" Licence per vehicle: Sh. 20.

(b) For a "B" Licence per vehicle: Sh. 20.

(c) For a "C" Licence per vehicle: Sh. 2/50.

(d) For a Road Service Licence, per vehicle: Sh. 20.

(e) For a Short Term Licence in respect of a goods vehicle or passenger carrying vehicle issued under section 6 (2) of the Ordinance, per vehicle: twenty-five per centum of the fee payable for an annual Goods Vehicle, or Road Service Licence, of the class required.

(f) For a licence for a vehicle owned by the Government of the Colony or by the armed forces of the Crown or by a Local Native Council, or a variation of any such licence: free.

(2) The fee payable for the variation of a licence shall, subject to paragraph (f) of sub-Regulation (1) of this Regulation—

(a) where the application is for the addition of any vehicle, be the same fee per vehicle as would be payable under sub-Regulation (1) of this Regulation for a licence for such vehicle;

(b) where the application is for the deletion of any vehicle or vehicles and no vehicle is to be added, be Sh. 2/50 for the variation.

13. Where a motor vehicle specified in a licence hereinafter referred to as "the specified vehicle" has been destroyed, rendered unfit for service, or withdrawn from service for overhaul or repair and the holder of the licence desires a licence authorising, until it is replaced or rendered fit for service again, the use in its place of a vehicle in his possession or to be hired without a driver hereinafter referred to as "the

Return of
licences and
certificates on
variation.

Fees.

Temporary re-
placement of
authorised
vehicles.

substituted vehicle") which vehicle he is not authorized to use under his existing licence, and in the case of a goods vehicle the unladen weight of which does not exceed by more than 10 cwt. or 25 per cent, whichever may be the greater, the unladen weight of the specified vehicle, the provisions of Regulation 6 of these Regulations shall not apply and the application for such licence may be in the form of a letter explaining the circumstances and accompanied by the Identity Certificate for the specified vehicle.

14. If during the currency of the licence the holder thereof changes his address he shall, within seven days after the date of such change, notify such change to the Licensing Authority.

15. (1) If any licence or document issued by the Licensing Authority has during the currency thereof been lost, destroyed, or defaced, the holder thereof shall forthwith notify the Licensing Authority who shall, if satisfied that it has been so lost, destroyed, or defaced, cause a duplicate (so marked) to be issued to such holder and such duplicate shall have the same effect as the original licence or document: Provided that, in the case of any licence or document which has been defaced the duplicate shall be so issued only after the surrender of the original licence or document to the Licensing Authority or to any person specified by the Licensing Authority.

(2) Where a licence or document which has been lost and replaced is recovered the original licence or document shall be returned to the Licensing Authority forthwith.

(3) The fees to be paid for a duplicate licence or document shall be ten per centum of the fee payable for the original licence or document, with a minimum fee of Sh. 1.

16. If a licence ceases to have effect, otherwise than by the effluxion of time, or is suspended or revoked or if a direction has been given under sub-section (3) of section 19 of the Ordinance in respect of a licence, the holder thereof shall, within seven days after a notice to that effect has been delivered to him personally or sent to him by registered post at the address shown in his application or last notified in accordance with Regulation 14 of these Regulations, send or deliver such licence together with the identity certificates issued under the licence to the Licensing Authority for retention during the time of suspension, or for cancellation or alteration, as the case may be, and the Licensing Authority shall, on the removal of a suspension, return the licence and Identity Certificates to the holder.

Notification of
change of
address.

Issue of dupli-
cate licences and
other documents.

Return of
licences and
certificates to
Licensing
Authority.

Vehicles passing out of possession of holder of licence.

17. If during the currency of a licence the holder thereof ceases to be the owner of any vehicle specified therein he shall, within seven days thereafter, notify the Licensing Authority and return the licence to it for amendment or cancellation as the case may be together with the relative Identity Certificate.

Death, bankruptcy, etc., of holder of licence.

18. Where owing to the death, incapacity, bankruptcy or liquidation of the holder of a licence or to the appointment of a receiver or manager in relation to his business, such holder ceases to be the user of the vehicles authorized to be used by him under the licence, the person carrying on the business of the holder shall be deemed to be the holder of the licence if—

- (a) within fourteen days thereafter notice that the holder has ceased to be the user of those vehicles and the reason therefor, and the name of the person by whom the business is being carried on, be sent to the Licensing Authority, and
- (b) within one month after the sending of such notice an application for a new licence be duly made:

Provided that the period during which such person shall be deemed to be the holder of the licence shall in no case extend beyond the date on which the licence would have expired but for the occurrence of the said event and shall terminate immediately the application is disposed of.

Powers of inspection

19. (1) Any person authorized in writing by the Licensing Authority, or by a police officer not below the rank of superintendent, may at all reasonable times require the production, for the purposes of inspection, of any licence or Identity Certificate issued under the provisions of the Ordinance.

(2) Any person who fails or refuses to produce any such licence or Identity Certificate when required so to do by any person so authorized shall be guilty of an offence against these Regulations.

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

This 25th day of March 1938

R. W. BAKER-BEALL,
Clerk to the Executive Council.

FIRST SCHEDULE
APPLICATION FOR A PUBLIC "A" CARRIER'S LICENCE

THE TRANSPORT LICENSING ORDINANCE, 1937
Application for a Public "A" Carrier's Licence

To The Licensing Authority,
P.O. Box No. 112,
Nairobi.

I hereby apply for the grant of a Public Carrier's Licence (in continuance of Public Carrier's Licence No.) in respect of the vehicles described in the annexed Schedule, and I hereby declare that to the best of my knowledge and belief all the statements in this application and the annexed Schedule which has been signed by me are true.

Date

Signature

1. Full name of applicant
 2. Address
 3. Base or centre from which vehicles will normally be used for the carriage of goods for hire or reward (if other than address above)
 4. Does applicant use or intend to use any of the vehicles in the annexed Schedule for the carriage of goods in connexion with any trade or business carried on by him other than that of carrier of goods?
 5. Is the application for a licence in continuance of an existing licence issued to a carrier whose business the applicant has acquired or intends to acquire?
- If so, state:—
- (a) Name of that carrier
 - (b) Number of existing licence issued to that carrier
6. Facilities which applicant proposes to provide:—
 - (a) Class or description of goods to be carried
 - (b) Districts in which or places between which the vehicles will normally be used
 7. Details of rates proposed to be charged by applicant:

Schedule

Reg. No. of vehicle	Make	Horse power	Engine No.	Whether petrol-driven or otherwise	Weight unladen	Carrying capacity	Whether pneumatic tyres or otherwise	Size of tyres

APPLICATION FOR A LIMITED "B" CARRIER'S LICENCE

THE TRANSPORT LICENSING ORDINANCE, 1937

Application for a Limited "B" Carrier's Licence

To The Licensing Authority,

P.O. Box No. 112,

Nairobi.

I hereby apply for the grant of a Limited Carrier's Licence (in continuation of Limited Carrier's Licence No.) in respect of the vehicles described in the annexed Schedule, and I hereby declare that to the best of my knowledge and belief all the statements in this application and the annexed Schedule which has been signed by me are true.

Date

Signature

1. Full name of applicant
2. Address
3. Base or centre from which vehicles will normally be used for the carriage of goods for hire or reward (If other than address above)
4. (a) Does applicant use or intend to use any of the vehicles in the annexed Schedule for the carriage of goods in connexion with any trade or business carried on by him other than that of carrier?
- (b) If so, what is the nature of the other business?

Kenya Proclamations, Rules and Regulations, 1938

APPLICATION FOR AN EXCLUSIVE LICENCE
THE TRANSPORT LICENSING ORDINANCE, 1937

Application for an Exclusive Licence

To The Licensing Authority,

P.O. Box No. 112,
Nairobi.

Application for an Exclusive Licence

(This form must never be returned alone but must have attached to it the application form appropriate to the licence ("A", "B" or Road Service Licence) in respect of which this application is made.)

I wish the attached application to be considered as an application for an Exclusive Licence to be granted to me for a period of years.

Date

Signature

APPLICATION FOR A SHORT TERM LICENCE
THE TRANSPORT LICENSING ORDINANCE, 1937

To The Licensing Authority,

P.O. Box No. 112,
Nairobi.

Application for a Short Term Licence

(This form must never be returned alone, but must have attached to it the application form appropriate to the licence ("A", "B" or Road Service Licence) in respect of which this application is made.)

I wish the attached application to be considered as an application for a Short Term Licence for the period—
.....
to

The reasons why a Short Term Licence is sought instead of a licence for the normal currency are:—
.....
.....

Date

Signature

Kenya Proclamations, Rules and Regulations, 1938

APPLICATION FOR VARIATION OF PUBLIC "A"/
LIMITED "B" CARRIER'S LICENCE

THE TRANSPORT LICENSING ORDINANCE, 1937

To The Licensing Authority,

P.O. Box No. 112,
Nairobi.

*Application for Variation of Public "A"/Limited "B"
Carrier's Licence*

I hereby apply for the variation of the undermentioned licence, and declare that to the best of my knowledge and belief, the statements made below are true and correct.

Date

Signature

1. Full name of applicant
2. Address
3. "A"/"B" Carrier's Licence to be varied: No.
4. (a) Please take off my licence these motor vehicles:—
Motor vehicles
- Regn. No.
- Unladen weight
- Carrying capacity
4. (b) I apply to have added to my licence these motor vehicles owned or in possession under hire-purchase agreement (or to be acquired or to be possessed under hire-purchase agreement):—
(i) Motor vehicles
- Regn. No.
- Unladen weight
- Carrying capacity
- (ii) Motor vehicles to be acquired
- Regn. No.
- Unladen weight
- Carrying capacity
5. (a) Please take off my licence these motor vehicles authorized to be hired without driver under section 5 (6) (b) of the Ordinance:—
Motor vehicles
- Regn. No.
- Unladen weight
- Carrying capacity

APPLICATION FOR AN EXCLUSIVE LICENCE
THE TRANSPORT LICENSING ORDINANCE, 1937

Application for an Exclusive Licence

To The Licensing Authority,

P.O. Box No. 112,

Nairobi.

Application for an Exclusive Licence

(This form must never be returned alone but must have attached to it the application form appropriate to the licence ("A", "B" or Road Service Licence) in respect of which this application is made.)

I wish the attached application to be considered as an application for an Exclusive Licence to be granted to me for a period of years.

Date

Signature

APPLICATION FOR A SHORT TERM LICENCE
THE TRANSPORT LICENSING ORDINANCE, 1937

To The Licensing Authority,

P.O. Box No. 112,

Nairobi.

Application for a Short Term Licence

(This form must never be returned alone, but must have attached to it the application form appropriate to the licence ("A", "B" or Road Service Licence) in respect of which this application is made.)

I wish the attached application to be considered as an application for a Short Term Licence for the period—

.....

The reasons why a Short Term Licence is sought instead of a licence for the normal currency are:—

Date

Signature

APPLICATION FOR VARIATION OF PUBLIC "A"/
LIMITED "B" CARRIER'S LICENCE
THE TRANSPORT LICENSING ORDINANCE, 1937

To The Licensing Authority,

P.O. Box No. 112,

Nairobi.

*Application for Variation of Public "A"/Limited "B"
Carrier's Licence*

I hereby apply for the variation of the undermentioned licence, and declare that to the best of my knowledge and belief, the statements made below are true and correct.

Date

Signature

1. Full name of applicant
2. Address
3. "A"/"B" Carrier's Licence to be varied: No.
4. (a) Please take off my licence these motor vehicles:—
Motor vehicles
- Regn. No.
- Unladen weight
- Carrying capacity
4. (b) I apply to have added to my licence these motor vehicles owned or in possession under hire-purchase agreement (or to be acquired or to be possessed under hire-purchase agreement):—
- (i) Motor vehicles
- Regn. No.
- Unladen weight
- Carrying capacity
- (ii) Motor vehicles to be acquired
- Regn. No.
- Unladen weight
- Carrying capacity
5. (a) Please take off my licence these motor vehicles authorized to be hired without driver under section 5 (6) (b) of the Ordinance:—
Motor vehicles
- Regn. No.
- Unladen weight
- Carrying capacity

5. (b) I apply to have added to my licence these motor vehicles intended to be hired without driver under section 5 (6) (b) of the Ordinance:—
 Motor vehicles
 Regn. No.
 Unladen weight
 Carrying capacity
6. (a) Please take off my licence these trailers:—
 Trailers:—
 Regn. No.
 Unladen weight
 Carrying capacity
6. (b) I apply to have added to my licence these trailers:
 Trailers:—
 Regn. No.
 Unladen weight
 Carrying capacity
7. (Only for variation of conditions of "B" Licences.)
 Please vary the conditions attached to my "B"
 Licence so that they will read
8. (Only for variations of "A" or "B" Licences which will increase the number or the aggregate unladen weight of authorized vehicles.)
 (a) Facilities which applicant proposes to provide:—
 (i) Class or description of goods to be carried for hire or reward
 (ii) Districts in which or places between which vehicles will normally be used for hire or reward (This information may conveniently be given as a radius in miles from applicant's base)
 (iii) Details of rates proposed to be charged by applicant
- (b) Is the proposed increase due to the applicant having acquired or being about to acquire the business of another carrier? If so,
 state:—
 (i) Name of that carrier
 (ii) Number of existing licence issued to that carrier and date of expiry
9. Details of any other application which has been or is being made for a Carrier's Licence

APPLICATION FOR VARIATION OF PRIVATE "C"
 CARRIER'S LICENCE, AND NOTICE UNDER
 SECTION 5 (7) OF THE ORDINANCE

THE TRANSPORT LICENSING ORDINANCE, 1937

Application for Variation of Private "C" Carrier's Licence,
 and Notice under Section 5 (7) of the Ordinance

To The Licensing Authority,

P.O. Box No. 112,

Nairobi.

I hereby apply for the variation of the undermentioned licence, and declare that to the best of my knowledge and belief the statements made below are true and correct.

Date

Signature

1. Full name of applicant
2. Address
3. Private "C" Carrier's Licence to be varied: No.
4. (a) Please take off my licence these motor vehicles:—
 Regn. No.
4. (b) Please add to my licence these motor vehicles acquired, or now in possession under hire-purchase agreement:—
 Regn. No.
5. Please increase the number of motor vehicles authorized to be hired without driver under section 5 (6) (b) of the Ordinance:—
 Motor vehicles:—
 From (give number now authorized)
 to (give number required)
6. Please increase the number of trailers authorized to be used under my licence:—
 Trailers:—
 From (give number now authorized)
 to (give number required)

APPLICATION FOR VARIATION OF A ROAD SERVICE LICENCE

THE TRANSPORT LICENSING ORDINANCE, 1937

To The Licensing Authority,
P.O. Box No. 112,
Nairobi.

Application for Variation of a Road Service Licence

I hereby apply for the variation of the undermentioned licence and declare that, to the best of my knowledge and belief, the statements made below are true and correct.

Date

Signature

1. Full name of applicant
2. Address
3. Road Service Licence to be varied: No.
4. (a) Please take off my licence these motor vehicles:—
Motor Vehicles
- Regn. No.
- Unladen weight
- Carrying capacity
4. (b) I apply to have added to my licence these motor vehicles owned or in possession under hire-purchase agreement (or to be acquired or to be possessed under hire-purchase agreement):—
- (i) Motor vehicles
- Regn. No.
- Unladen weight
- Carrying capacity
- (ii) Motor Vehicles to be acquired
- Regn. No.
- Unladen weight
- Carrying capacity
5. Please vary the conditions attached to my licence so that they will read

6. (Only for variations of a Road Service Licence which will increase the number or the aggregate carrying capacity of the authorized vehicles).

(a) Particulars of the service or services proposed to be operated by applicant including in the case of regular services the time tables of such services, and in any other case the frequency of such services and the times expected to be taken on the journeys proposed.

(b) Particulars of the fares proposed to be charged in respect of the service or services the subject of this application.

(c) Is the proposed increase due to the applicant having acquired or being about to acquire the business of another carrier? If so, state:—
(i) Name of that carrier
(ii) Number of existing licence issued to that carrier and date of expiry

7. Details of any other application which has been or is being made for a Carrier's Licence.

SECOND SCHEDULE

THE TRANSPORT LICENSING ORDINANCE, 1937

Notice of Objection

To The Licensing Authority.

P.O. Box No. 112,
Nairobi.

Notice of Objection to the Application made by
and numbered
in Applications and Decisions dated

I/We, already
providing transport for the carriage of goods/persons—
in the district of
between and

by virtue of the Transport Licensing Ordinance, 1937 (Public Carrier's "A"/Limited Carrier's "B"/Road Service/Inland Water Transport) Licence No.
and in particular the following transport facilities

object to the above application on the ground that—

(1) suitable transport facilities (namely, the services of the present objector and of)
are already in excess of requirements.

'(2) suitable transport facilities (namely, the services of the present objector and of) would, if this application were granted, be in excess of requirements.

'(3) the conditions attached to a licence held by the applicant have not been complied with in the following respects, namely

'My/Our objection is particularly directed—

'(a) to the inclusion in the licence of the following goods' vehicles' (or any vehicle which may be substituted for any of those vehicles)

'(b) to the grant of the licence unless conditions to the following effect are attached to it:—

'(c) (in respect of applications for the variation of conditions attached to licences) to the proposed variation in so far as it would permit

(d) In respect of applications for an Exclusive Licence:—

State reasons

A copy of this objection has been sent to the Applicant.

Signature of Objector

Address

Date

Note.—On application for the grant or variation of an "A" Licence, the Licensing Authority is not bound to take into consideration objections made by a person who holds a "B" Licence and does not also hold an "A" Licence.

¹ One of these may be omitted.

² Omit if inapplicable.

³ Insert here particulars of facilities provided by objector.

⁴ Omit one of these paragraphs.

⁵ If applicable, give details of alleged failures. A full statement may obviate the need of an inquiry.

⁶ Omit all or any of these which are inapplicable.

⁷ The vehicles need not be specified by Registration Number but may be indicated by such phrases as: "Vehicles additional to those already authorized"; "3 motor vehicles and 2 trailers in possession"; "2 motor vehicles to be hired"; "1 trailer to be acquired", etc.

THIRD SCHEDULE

In the case of Short Term Licences the forms in this Schedule will be used, but the licence will be endorsed "Short Term Licence".

THE TRANSPORT LICENSING ORDINANCE, 1937 Public "A" Carrier's Licence

Licence No. "A"

issued to—
Number of Vehicles.

Fees payable.

Sh.

Date of Issue

Licensing Authority.

Public "A" Carrier's Licence

The Licensing Authority hereby authorizes the person to whom this Licence is issued to use up to and including the day of, 193..., the vehicles described in the First Schedule attached hereto.

Subject to—

- (a) the payment to the of the fees shown in the ninth column of the said Schedule, the receipt of which will be acknowledged on the respective Identity Certificates;
- (b) the provisions of the Transport Licensing Ordinance, 1937, and of any Regulations made thereunder; and
- (c) the special conditions endorsed on the Second Schedule attached hereto.

(To be detached and sent to the Licensing Authority.)

To The Licensing Authority.

P.O. Box No. 112,

Nairobi.

I hereby acknowledge the receipt of Carrier's Licence

No.

Signature

Address

Date

Reg. No. of Vehicle	Make	Horse-power	Engine No.	First Schedule			Type and use of tyres	Fee payable
				Power (net)	Weight unladen	Carrying capacity		

Second Schedule
CONDITIONS

THE TRANSPORT LICENSING ORDINANCE, 1937
Limited "B" Carrier's Licence

Licence No. "B" Issued to—

Number of Vehicles.

Fees payable.

Sh.

Date of Issue

Licensing Authority.

Limited "B" Carrier's Licence

The Licensing Authority hereby authorizes the person to whom this licence is issued to use, up to and including the day of 193..., the vehicles described in the First Schedule attached hereto.

Subject to—

- the payment to the of the fees shown in the ninth column of the said Schedule, the receipt of which will be acknowledged on the respective Identity Certificates;
- the provisions of the Transport Licensing Ordinance, 1937, and of any Regulations made thereunder; and
- the special conditions endorsed on the Second Schedule attached hereto.

(To be detached and sent to the Licensing Authority.)

To The Licensing Authority,
P.O. Box No. 112,
Nairobi.

I hereby acknowledge the receipt of Carrier's Licence
No.

Signature

Address

Date

First Schedule

Reg. No of vehicle	Make	Horse-power	Engine No.	Power (hp)	Weight unladen	Carrying capacity	Type and size of tyres	Fee payable

Second Schedule
CONDITIONS

THE TRANSPORT LICENSING ORDINANCE, 1937
Limited "B" Carrier's Licence

Licence No. "B" Issued to—
Number of Vehicles.

Fees payable.

Sh.

Date of Issue

Licensing Authority.

Limited "B" Carrier's Licence

The Licensing Authority hereby authorizes the person to whom this licence is issued to use, up to and including the day of 193... the vehicles described in the First Schedule attached hereto.

Subject to—

- (a) the payment to the of the fees shown in the ninth column of the said Schedule, the receipt of which will be acknowledged on the respective Identity Certificates;
- (b) the provisions of the Transport Licensing Ordinance, 1937, and of any Regulations made thereunder; and
- (c) the special conditions endorsed on the Second Schedule attached hereto.

(To be detached and sent to the Licensing Authority)

To The Licensing Authority,
P.O. Box No. 112,
Nairobi.

I hereby acknowledge the receipt of Carrier's Licence
No.

Signature

Address

Date

First Schedule				Second Schedule CONDITIONS				
Reg. No. of vehicle	Make	Horse power	Engine No.	Power fuel	Weight unladen	Carrying capacity	Type and size of tyres	Fee payable

THE TRANSPORT LICENSING ORDINANCE, 1937

Private "C" Carrier's Licence

Licence No. "C" Issued to—
Number of Vehicles.

Fees payable.

Sh.

Date of Issue

.....
Licensing Authority.

Private "C" Carrier's Licence

The Licensing Authority hereby authorizes the person to whom this Licence is issued to use, up to and including the day of 193..., the vehicles described in the First Schedule attached hereto.

Subject to—

- (a) the payment to the of the fees shown in the ninth column of the said Schedule, the receipt of which will be acknowledged on the respective Identity Certificates;
- (b) the provisions of the Transport Licensing Ordinance, 1937, and of any Regulations made thereunder; and
- (c) the special conditions endorsed on the Second Schedule attached hereto.

.....
(To be detached and sent to the Licensing Authority.)

To The Licensing Authority,
P.O. Box No. 112,
Nairobi.

I hereby acknowledge the receipt of Carrier's Licence
No.

Signature

Address

Date

First Schedule

Reg. No. of vehicle	Make	Horse-power	Engine No.	Power fuel	Weight unladen	Carrying capacity	Type and size of tyres	Fee payable

Second Schedule

CONDITIONS

THE TRANSPORT LICENSING ORDINANCE, 1937
Road Service Licence

Road Service Licence No. Issued to—
Number of Vehicles

Fees payable:

Sh.

Date of Issue

Licensing Authority:

Road Service Licence

The Licensing Authority hereby authorizes the person to whom this Licence is issued to use, up to and including the day of, 193..., the vehicles described in the First Schedule attached hereto.

Subject to—

- the payment to the of the fees shown in the ninth column of the said Schedule, the receipt of which will be acknowledged on the respective Identity Certificates;
- the provisions of the Transport Licensing Ordinance, 1937, and of any Regulations made thereunder; and
- the special conditions endorsed on the Second Schedule attached hereto.

(To be detached and sent to the Licensing Authority)

To The Licensing Authority,
P.O. Box No 112,
Nairobi.

I hereby acknowledge the receipt of Road Service Licence
No.

Signature

Address

Date

First Schedule

Reg. No. of vehicle	Make	Horse-power	Engine No.	Power fuel	Weight unladen	Carrying capacity	Type and size of tyres	Fee payable

Second Schedule
CONDITIONS

THE TRANSPORT LICENSING ORDINANCE, 1937

Variation of Licence No. Issued to—

Serial No.

	Fee payable.	
	Number of additional vehicles	
	Number of vehicles deleted.	

Date of Issue of Variation

.....
Licensing Authority.Subject to the payment to the
of the fee of Sh. the Licensing Authority hereby
varies the above Licence as follows:—

Vehicles deleted therefrom

Vehicles added thereto

N.B.—This Variation must be attached to the licence to which it
relates.



7 April 1938.

Sir,

38342 5
I have the honour to acknowledge the receipt of your despatch No.126A of the 9th March on the subject of the Transport Licensing Ordinance, 1937.

2. The representations by the Government of India, urging that the Indian community should be given adequate representation on the Transport Licensing Board established under section 3 of the Ordinance, were fully dealt with in my despatch No.128 of the 8th March, which you will now have received. In paragraph 4 of that despatch I informed you that on the advice of my Executive Council I have nominated Mr. S.T. Thakore, an Indian, to be one of the four members of the Board under the chairmanship of the Attorney General, and I trust that the Government of India will regard the position as satisfactory.

6
3. I come now to the communication from the Governor of Tanganyika, proposing that the existing legislation in that Territory should not be brought into operation insofar as it affects dhows, but that fresh legislation should be introduced at the April Session of the Legislative Council. In a letter dated the 14th January this Government was informed by the Chief Secretary to the Government of Tanganyika that further consideration of the administrative problem of licensing dhows on Lake Victoria had led to the decision that the matter had better be dealt with by an ad hoc Ordinance which would be submitted/

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

FOURTH SCHEDULE
THE TRANSPORT LICENSING ORDINANCE, 1937
Identity Certificate

Serial No.

Fee paid

This is to
 certify that the
 vehicle described in this
 certificate is an authorized
 vehicle for the year

.....
 under the Transport Licensing Board's

Licence No. issued to—

Name

Address

Reg. No. of Vehicle

Make

Carrying Capacity

Station issued by

Date for Licensing Authority.

N B—In the case of a vehicle in respect of which a Short Term Licence has been issued, the above certificate will be varied by substituting the words "for the period from to for the words "for the year".

~~GOVERNMENT NOTICE NO. 229~~

~~THE LOCAL GOVERNMENT (MUNICIPALITIES)
 ORDINANCE, 1928~~

~~MUNICIPALITY OF MOMBASA~~

~~Notice~~

~~IN EXERCISE of the powers conferred upon him by section 9 of the Local Government (Municipalities) Ordinance, 1928, His Excellency the Governor in Council has, at the request of the Municipal Board of Mombasa, been pleased to direct that, in lieu of being nominated, the seven Indian Members appointed to the said Board under paragraph (3) of section 9 of the said Ordinance shall be elected.~~

~~By Command of His Excellency the Governor in Council.~~

~~Nairobi,~~

~~R. W. BAKER-BEALL,~~

~~11th March, 1938.~~

~~Clerk to the Executive Council.~~

submitted to the Legislative Council at its next meeting, probably in April. No reasons were given for the action proposed by the Tanganyika Government, and no further information was vouchsafed to this Government until, with a letter dated the 23rd March, the Secretary to the Governors' Conference forwarded copies of the Tanganyika Inland Water Transport Bill. In this letter the Secretary to the Governors' Conference intimates that in the opinion of the Government of the Tanganyika Territory it is neither necessary nor desirable to enforce all the provisions of the Transport Ordinance at this stage, and as it is not possible to bring into effect provisions for the control of inland water transport without also bringing into effect all the other provisions of the Ordinance, it has been decided to introduce the present Bill which deals solely with the problem of inland water transport. It is added that the Government of the Tanganyika Territory considers also that the licensing of dhows on Lake Victoria is a purely local problem and the Bill therefore provides that licensing shall be done by a licensing authority at Mwanza rather than by the Central Board contemplated by the Transport Ordinance, 1937. A telegram has now been received in which the Tanganyika Government states that this Bill has been passed by the Legislative Council.

4. The position regarding the Kenya Transport Licensing Ordinance, 1937, is that section 4, prohibiting the use of vehicles affected except under and in accordance with the terms of a licence under the Ordinance, will come into operation on the 1st July next, all the other sections of the Ordinance having already been brought into operation, and it is not proposed to depart from the line of action arranged in spite of the change of attitude of the Tanganyika Government.

5. As far as inland water transport is concerned, when the Tanganyika Ordinance is brought into force and provided that the fees for licences under that legislation approximate to the Kenya fees, reciprocity can be achieved by exempting from payment of Kenya licences all ships registered in Tanganyika. It is understood that the Kenya Transport Licensing Board intend to delegate to the District Commissioner at Kisumu their authority to license ships.

In this connection it is of interest, in the light of the various references in the Legislative Council and elsewhere to the subject of dhows in connection with the Transport Licensing Ordinance, that there are only 10 steam and motor craft and 25 dhows of all sizes registered at Kisumu, so that the problem is not of such magnitude as has sometimes been suggested.

6. As regards motor vehicles, there is, in the absence of similar legislation in Uganda and the Tanganyika Territory, no opportunity for reciprocity, and the Transport Licensing Board has recommended that for the present no exemption from the provisions of the Ordinance should be given to vehicles registered in those territories and operating on Kenya roads.

The Uganda and Tanganyika Governments have been asked to bring to the notice of the residents in those territories the requirements of the Kenya Transport Licensing Ordinance, 1937, and the Vehicles Licensing Regulations, 1938, made thereunder, in order that any person affected thereby may not be taken by surprise and put to inconvenience.

7. In conclusion I would add that I cannot but regard the change of plan on the part of the Tanganyika Government as a matter for regret from the aspect of co-operation between the East African Territories, since I

am of the opinion that reciprocity between the Territories in legislation such as the Transport Licensing Ordinance is most desirable.

8. A copy of this despatch is being sent to the Government of the Tanganyika Territory, and to the Secretary to the Conference of East African Governors.

I have the honour to be,
Sir,
Your most obedient,
humble servant,



AIR CHIEF MARSHAL

G O V E R N O R.

12
96

orig on 4 2667/1/3877

Telegram from the Dhow Owners Association Mwanza to the Secretary of State for the Colonies.

Dated 13th. April, 1938. Received 14th. April 6.30 a.m.

We strongly protest against Ordinance controlling Inland Water Transport System passed Tanganyika Council on 6th. April. Informed similar Ordinances will be passed in Kenya and Uganda Councils. In view of long services of Dhows on Lake dating back over fifty years we request His Majesty's Government withhold approval these Ordinances as they will economically disable the industry.

Dhow Owners Association.

orig on 42667/1/38 17

Telegram from the Officer Administering the Government of the Tanganyika Territory to the Secretary of State for the Colonies.

Dated 13th April, 1938. Received 11-4am 13th April, 1938.

No. 77.

10

Your telegram No. 52 Inland Water Transport

Bill was published on the 17th March. It passed through all its stages on the 29th March and 30th March and was assented to on the 6th April but will not be brought into operation until the necessary rules have been made in Council. These rules are being prepared in consultation with other Governments concerned who will also be consulted as to date of operation. The only representations received are those of Dhow Owners Association. Despatch follows.

draft on 42667/1/38 H

1098

42267/1/38.

TELEGRAM from the Secretary of State for the Colonies
to the Officer Administering the Government of
the Tanganyika Territory

(Sent 4 p.m., 7th April, 1938.)

No. 52.

Your telegram No. 64.

Before replying to the Memorandum from the
Dhow Owners Association enclosed in your despatch
No. 16 I should be glad to learn when the new Bill
was published and what representations have been
received. I should prefer that the second reading
of the Bill be deferred until I have had an
opportunity to examine the matter further in the
light of correspondence with the Governor of Kenya.

999

orig on 42667/1/38 TT

Telegram from the Officer Administering the Government of Tanganyika to the Secretary of State for the Colonies.

Dated 28th March 1938. Received 6.10 p.m. 28th March 1938.

No 64.

3 on 42667/1/38 TT

Your despatch No 142 of 16th March. Inland Water Transport Bill. Provisions of new bill are with two exceptions only same as those included in Transport Ordinance of 1937 which was drafted in consultation with the Government of Kenya. The two alterations are first that licensing of vessels will be done by a licensing authority at Mwanza instead of a central board. Second that as it is not thought that the High Court can properly be required to decide issues which are solely economic or financial provision has been made for appeal to lie to the Governor. Governments of Kenya and Uganda have been informed of proposal and have been sent copies of bill through Governor's Conference.

(C)

The Kenya Transport Licensing Ordinance and the similar ordinances in Uganda and the TT. gives effect to recommendations in Sir B. Munn's Report on the coordination of Transport in the three Dependencies. On the

copy attached

minutes of 19/11/48 -/37

introduction of the Bill into Leg Co. at the end of October last it was reported in the Press that the Indian Chambers of Commerce in India hailed the provisions confiding ~~the~~ as another piece of anti-Indian legislation. - Complaints were made by the Kenya Indians to the Govt of India as a result of which the India Office asked the S.G.S. to postpone the enactment of the bill until ~~the~~ it had been examined from the point of view of Indian interests. This was refused, the point being explained to the T.O. On 31st of December

(4) an -/37

(5) an -/37

(11) an -/37

(12) an -/37

(12) an -/37

(1) an -/38

10 wrote again giving Govt of India's views on the bill after a first consideration of it. This was referred to Kenya, and the letter telling the T.O. that this had been done crossed with a further letter from the T.O. saying that in spite of the fact that the bill had now been passed the Govt of India would like its objections to be considered. This was followed by yet another letter repeating one of the Govt of India's criticisms but in (11) an -/37.

(3) an -/38

(6) an -/38

Kenya has now furnished detailed comments on the T.O. letter referred ~~to~~ out in No 13 an -/37, and covers all the points raised by the Govt of India, giving full explanation of the reasons for the provisions to which exception was taken.

Clough, Munn.

12
101

Extract from letter from the Secretary of State to
Sir Robert Brooke-Popham, G.C.V.O., K.C.B., C.M.G., D.S.O., A.F.C.,
dated 10th March 1938.

It is good news that the Executive Council have chosen an Indian as one of the members of the new Transport Licensing Board. As you will see from a recent official despatch, the Government of India have telegraphed pressing for an Indian to be appointed, and we shall now be in a position to send them a pacifying reply. I am glad to hear that Ismail, the new Indian Trade Commissioner, takes a broad view of things. It remains to be seen whether, as time goes on, he will be able to indoctrinate his fellow countrymen.

101

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1026

RECEIVED
14 MAR 1938
C. O. F. 102

8 March 1938.

Sir,

I have the honour to acknowledge the receipt of your despatch No.36 of the 21st January, enclosing copies of correspondence with the India Office regarding the Transport Licensing Ordinance, 1937.

(13) or 38342/37

2. Copies of this Ordinance were transmitted to you with Kenya despatch No.18 of the 12th January, in paragraph 5 of which reference was made to a Memorandum to be furnished by the East African Indian National Congress. This Memorandum has not yet been received. I enclose, however, for your information, copies of correspondence with the Government of India on the subject of this Ordinance.

=====

(14) - 38342/37

3. In the India Office letter of the 31st December, a copy of which accompanied your despatch, it is suggested, first, that the Ordinance should specifically provide that the composition of the Transport Licensing Board should include one member "commanding the confidence of the Indian community", or, failing this, that a public declaration should be made that the Board will have at least one Indian member.

A careful reading of these alternative suggestions reveals the implication (which I do not wish to pass over without comment) that, in the view of the Government of India, a person "commanding the confidence of the Indian community" must necessarily be an Indian. In the case of this Board no less than in the case of Executive Council or any other body on which the interests of the Indian community/

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



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

community must be represented, it is the duty of this Government to see that such interests are represented by a person or persons commanding the confidence of that community. I am willing to agree that these persons would usually be of Indian race, but I am unable to subscribe to the view that they must necessarily be Indians if other persons with equally good qualifications and possessing the confidence of the Indian community, are available.

In the debate on the second reading of the Bill the following passage occurs:-

MR. HARAGIN..... It has been suggested that in the Bill it should be laid down exactly who should have representation on the Board. I have no more to say than I said earlier, namely, that it will be the duty of the Governor in Council to place on that Board four persons most suited to serve, with out any regard to colour, race or creed.

MR. SHAMSUD-DEEN. On a point of explanation, I tried to make it clear that no racial question was involved. All we ask is that on the Board are representatives of the people who are engaged in that trade, including natives and Indians. We never said on a racial basis at all*.

4. The Board is to be concerned with the interests of the Colony as a whole, and not merely with the interests of those engaged in the business of transport. It is neither customary nor desirable in matters of this kind that the law should specifically provide that the body charged with its administration should include a person or persons of any particular race or representing the interests of any particular race. It is, however, the Government's intention, which I should have no objection to announcing publicly on a suitable occasion, that the interests of the Indian community shall be represented on the Board. Such representation would normally be secured by the appointment of one Indian member, and I take the opportunity of informing you that on the advice of my Executive Council I have appointed the following persons members of the Board, under the chairmanship of the Attorney General:-

Mr. Conway Harvey;
Mr. H.R. Montgomery, C.M.G.;
Mr. W. Grazebrook;
Mr. S.T. Thakore.

5. The second suggestion put forward by the Government of India is that the provisions relating to dhows might be excluded from the scope of the Bill. This suggestion is apparently based on the ground that Sir Osborne Lance did not consider it necessary that restrictions should be introduced in the present number or operation of dhows.

The purpose of including inland water transport in the scope of the Ordinance is to establish control, in the interests of organized transport, and not to restrict dhow services at present running on the Lake. In the debate on the second reading the General Manager, Kenya and Uganda Railways and Harbours, stated:-

"One of the main criticisms regarding this Bill has been in connection with dhow transport. It has been assumed that the Railway on the passing of this Bill are going to object to every application that a dhow owner may put in for a licence. What are the facts? In every public utterance on the subject I have stated that we regard the dhow transport on the Lake as a feeder service. We consider them as helpful to the country surrounding the Lake and therefore helpful to the transport organization of the Railway and therefore to be encouraged in every way in their legitimate competition".

The Kenya Transport Co-ordination Committee (Report, 1936: paragraph 30) said that with regard to inland water-borne services they were satisfied that there was no reason to restrict native canoes, boats or dhows on the inland waters so long as they provided services in the public interest and that any legislation should, in the Committee's opinion, be so designed as to facilitate the granting of licences or permits to these craft in such circumstances. The Committee envisaged, however, the possibility of other craft of a more serious type plying on the Lake in competition with existing services, and

considered/

considered that such transport should, in the same way as other forms of transport, be subject to the test of public interest.

6. Sir Osborne Mance's conclusion on this subject was expressed in the following terms:-

"The Licensing commission would not therefore find it necessary or desirable to introduce any restrictions in the present number or operation of dhows".

It will be seen from this that Sir Osborne Mance contemplated the inclusion of dhow transport within the purview of the licensing authority. It will also be observed that the establishment of control by an authority carrying out the policy recommended by Sir Osborne Mance and accepted by the Transport Administration is in the interests of the dhow owners themselves.

7. The third point raised by the Government of India is that provision should be made for the grant of any exclusive transport licence to be debated in the Legislative Council before the licence is issued. Section 3 of the Ordinance provides that the Licensing Authority may, with the approval of the Governor in Council, grant exclusive licences for passenger or goods transport, after public advertisement for a period of six months of its intention to do so. You have already caused the India Office to be informed, in Mr. Flood's letter of the 3th December, 1937, that you have requested that no such exclusive licence may be granted without your being consulted.

Provision for exclusive transport licences has already been made in this Colony in the Local Government (Municipalities) (Amendment) Ordinance, 1933 and the Ferries Ordinance, 1936. In neither case was provision made requiring the approval of Legislative Council at the grant of a licence, and no useful purpose would be served by inserting such a stipulation in the Transport Licensing Ordinance.

(5) on 38342/37

(a) on 3066/33

(b) on 38250/36

Ordinance. It is, of course, always open to any member of the Legislative Council to initiate a debate on the subject of an application for an exclusive licence, of which he will have been given notice by means of the public advertisement already provided for in the law.

I have the honour to be,
Sir,
Your most obedient,
humble servant,

Brooke-Popham

AIR CHIEF MARSHAL

G O V E R N O R.

COPY.

107

TELEGRAM FROM SECRETARY TO GOVERNMENT OF INDIA,
DEPARTMENT OF EDUCATION HEALTH AND LANDS, NEW DELHI.

TO HON: COLONIAL SECRETARY.

Despatched 12th Jan: 1938, received and typed 13th.

F 195/37L-and-0 Press reports indicate Transport Licensing Bill passed by Kenya Legislative Council. Kindly despatch by air mail copies of the Bill as passed also verbatim account of the proceedings at all stages.

Xabandar.

COPY.C.RDS.1/10/11/12

14th January 1938.

The Acting Colonial Secretary of the Colony and Protectorate of Kenya presents his compliments to the Secretary of the Department of Education, Health and Lands, Government of India, New Delhi, and, in accordance with the request contained in his telegram No.F.195/37L-and-O of the 12th January, has the honour to forward three copies of the Transport Licensing Ordinance, 1937, together with advance copies of Legislative Council debate.

109

TELEGRAM FROM SECRETARY TO GOVERNMENT OF INDIA,
DEPARTMENT OF EDUCATION HEALTH AND LANDS.

TO HON. COLONIAL SECRETARY

Despatched 2nd February, 1938, received and typed 3rd.

P195/37 L & O Government of India will be glad to be informed urgently what portions if any of the Transport Licensing Ordinance have been brought into force giving dates and also if the Licensing Board has been established whether any Indian has been appointed. If the Kenya Government have no objection the Government of India would also be grateful if copies of the debate if any on the first reading and of the Select Committee report could be sent by air mail.

Xabandar.

COPY.

110

TELEGRAM TO SECRETARY TO GOVERNMENT OF INDIA,
DEPARTMENT OF EDUCATION HEALTH AND LANDS,
NEW DELHI.

Despatched 4th February, 1938.

No.52 Reference your telegram No.E
195/37 L & O of February 2nd Transport Licensing
Ordinance has not yet been brought into force.
Letter follows.

Administer.

COPY.

C.RDS.1/10/II/31

7th February, 1938.

Sir,

I have the honour to acknowledge the receipt of your telegram No.F.195/37 L & C on the subject of the Transport Licensing Ordinance, 1937, and to inform you that no portion of this Ordinance has yet been brought into force, nor has the Transport Licensing Board yet been established.

2. In accordance with the procedure laid down by the Standing Rules and Orders of the Kenya Legislative Council, no debate took place on the first reading of the Transport Licensing Bill.

3. A copy of the Report of the Select Committee of the Legislative Council on the Bill is enclosed as requested.

I have etc.

(SGD) H.S.POTTER.

For AG. COLONIAL SECRETARY.

The Secretary to the Government of India,
Department of Education, Health and Lands,
NEW DELHI
India.

COPY.

C.RDS.1/10/II/31

7th February, 1938.

Sir,

I have the honour to acknowledge the receipt of your telegram No.P.195/37 L & C on the subject of the Transport Licensing Ordinance, 1937, and to inform you that no portion of this Ordinance has yet been brought into force, nor has the Transport Licensing Board yet been established.

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I have etc.

(SGD) W.S. POSTER.

Per AG. COLONIAL SECRETARY.

The Secretary to the Government of India,
Department of Education, Health and Lands,
NEW DELHI
India.

G. O.

See next
revision

J.P.
9/3

38342/38

112

Mr. Paine 25/2

Mr. Board 26/4/38

Mr. Damm 28.2

Sir H. Moore.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Permt. U.S. of S.

Party. U.S. of S.

Secretary of State.



Sir,

with ref. to your dep. No 18
of the 12th of Jan. in regard to
the Transport Licensing Order
1937, I have the honor to transmit
to you for your consideration a
copy of a telegram from the
Govt. of India urging that the
Indian Community should be
given adequate representation
on the Licensing Authority to be
set up under the
Order. In my view the
Indian Representation to
this effect was
made in the letter from the
I.O., No. P.V.J. 5776/37 of
the 31st of Dec., wh. I forwarded
to you by dep. No 36
of the 21st of Jan., on wh. I
shall no doubt receive
your observations at an early
date.

DRAFT.

Kenya
No
Gov.

Govt. of India. Tel. 12/2
(Encl. to No 3)
J.T. Dep. No 16 of 10/1 D.
(No. 1 on
42267/1/38)

(11 m - 137)

(13 m - 137)

FURTHER ACTION.

copy to be placed
on 42267/1/38 T.T.
Doubt

Spent hours &
revising T.T. pp. to 1/4 pp. sent
to Mr. Board; & Kenya
pp. to Mr. Damm &
consider minutes
on next.

~~I shall shortly be
addressing to you a copy of~~

2. I also enclose a copy of a ~~report~~

(No. 1 on
42267/1/38
T.T.

~~a memorandum~~
received from the Gov. of Tanganyika,
in a despatch No. 10 of the 10th of Jan.,
that proposing that the existing
legislation of that Territory should
not be brought into operation
in so far as it affects slaves,
that that fresh legislation should
be introduced at an April Session
of the Leg. Co. I assume that
your Govt. has already been
informed of these proposals by the
Govt. of Tanganyika, & that I
shall receive due course
your observations thereon, together
with your recommendations
regard to the corresponding provisions
of the Kenya Order.

3. I regret that you will
however, ~~no doubt~~ appreciate
that it is difficult for me to
deal adequately with recommendations
— a matter of this kind by only one of
the Col. Govts concerned, ~~and~~
without in the absence of any indication
of the views of the other Govts affected.
It would therefore be a convenience if,
~~it were possible to~~ ~~have~~ ~~some~~
have occasion to address — on these

(would be good anyway)

matter, you will consent your
recommendation with the Gov. of Uganda
& Tanganyika & ~~the~~ ^{the} ~~information~~ ^{information} in
form of their view on my proposals
that you may submit for consideration.

4. I shall shortly be addressing
you - regard to certain general
provisions of the Tanganyika Licensing Act,
but I think will not be affected by
questions of policy dealt with in the
Committee's report for the Gov. of Tanganyika.

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114

23322

Extract from a letter from Sir Robert Brooke-Popnam
to the Secretary of State for the Colonies.

Dated 19th February, 1938.

10. Executive Council, without any pressure on my part,
chose an Indian as one of the members of the new Transport
Licensing Board which will, I think, go a long way to
quieting the Indian agitation against the Transport Bill.
However, I think Legislative Council were quite right in not
having it definitely laid down as part of the Ordinance that
there must be an Indian on the Board

Any further communication on this subject should be addressed to—

The Under Secretary of State for India,
Public & Judicial Department,
India Office,
London, S.W. 1.



INDIA OFFICE,

WHITEHALL,

LONDON, S.W. 1.

and the following reference quoted:—
P. & J.678/38.

Telephone:—
Whitehall 8140. T.O. Ext. No.
Telegrams:—
Retaxandium, London.

RECEIVED
16 FEB 1938
C.O.I.

15th February, 1938.

Sir,

With reference to the correspondence ending with your letter No.38342/37 dated the 20th January 1938 on the subject of the Kenya Transport Control Bill, I am directed to forward copy of a further telegram from the Government of India. Lord Zetland would be glad if the Government of India's request for adequate Indian representation on the Licences Board could be considered by Mr.Ormsby-Gore.

I am, Sir,
Your obedient Servant,

R. Peel

Copy sent to Kenya

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

4/11/38

P & J
670
116
1938

ACP/VH.

(75 words)

619

DECODE OF TELEGRAM.

(COPIES
CIRCULATED)

From	Government of India, Department of Education, Health and Lands, Secretary of State for India
Dated	New Delhi, 18th February, 1938
Received	2.50 p.m., 18th February, 1938

F.195/37 L & C Continuation of our telegram

dated January 12th, 1938, F.195/37 L & C, Kenya Transport Licence Ordinance. Kenya Government report Ordinance not yet brought into force. In addition to considerations urged in our telegram dated December 28th, 1937, we should be grateful if Colonial Office could be informed that, owing to the fact that Indians are particularly interested in transport licence in Kenya, Government of India hold view most strongly expressed in our telegram should be given adequate representation in the Licence Bill. This is particularly important in present state of public feeling in this country on the subject of the position of Indians in East Africa.

Airfax

AM MAIL

KENYA
No. 18



2
17
GOVERNMENT HOUSE
NAIROBI
KENYA

12 January 1938.

C.C.
Sir,

8/Jan 38342/37
With reference to previous correspondence terminating in your despatch No. 1119 of the 18th December last, I have the honour to forward two authenticated and twelve printed copies of Ordinance No. XL of 1937 entitled "An Ordinance to Provide for the Co-ordination and Control of Means of and Facilities for Transport" together with a Legal report thereon by the Attorney-General. This Ordinance passed its third reading in the Legislative Council on the 16th December, and the Governor assented to it in His Majesty's name on the 29th December.

10/Jan 38342/37
2. The Bill was introduced into the Legislative Council in the form submitted to you under cover of Kenya despatch No. 640 of the 25th October, 1937, and was then referred to a Select Committee of the Council a copy of whose Report is enclosed for your information. It will be observed that effect has been given to the suggestions outlined in your telegram No. 198 of the 23rd November except that relating to the addition to clause 19(1) of a proviso similar to that attached to clause 21(1) of the Tanganyika Bill. This proviso was deleted in the Select Committee stage and does not appear in the relevant section of the Tanganyika Ordinance as passed.

2/Jan 38342/37
The Attorney General's Legal Report includes a copy of the Bill as submitted to you, but showing the amendments made during its passage through the Legislative Council/

THE RIGHT HONOURABLE
W. ORMSBY GORE, F.S., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON. S.W. 1.

Council.

3. Your request, contained in the telegram referred to above, that, as a matter of administrative procedure, no exclusive licence should be granted under Clause 9 of the Ordinance without prior reference to you has been noted and action will be taken accordingly.

4. In accordance with the instructions contained in your despatch no. 1047 of the 30th November, 1937, an advance copy of the report of the Council debate on the second and third readings of the Bill is enclosed, from which you will observe that the passage of the Bill was opposed by the Indian members of Council. In view of the refusal to co-operate and to serve on the Select Committee plainly indicated by the Indian members in their speeches on the second reading and founded on their opposition to the principle of the Bill, no Indian member was appointed to the Select Committee, although the absence of an Indian member considerably enhanced the difficulties of the Committee in considering the detailed points raised by Indian members.

5. On the 8th January, a letter was received from the Honorary Secretary of the East African Indian National Congress containing a request that the following telegram should be despatched to you:

"Indian National Congress executive submitting memorandum within a week on Transport Control Bill requests postpone consent meantime".

In view of the fact that the copies of the Ordinance had not yet been transmitted to you, it was considered preferable to include this request in this despatch, rather than to send such a telegram. The memorandum will be

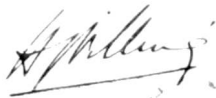
forwarded/

forwarded as early as possible after it is received. 119

6. In paragraph 7 of Kenya despatch no.640 of the 25th October last you were informed that provision for the expenditure contemplated for this year would be made in the Public works Department head of the estimates, and that such provision was not likely to be less than £2,000. Upon further consideration of the matter it appeared preferable to insert the required provision under the Legal Department head, at any rate for this year, since the Attorney-General is to be chairman of the Transport Licensing board. In view of the fact that it is unlikely that the Ordinance will come into force in respect of inland water borne transport before the 1st April and in respect of road transport before the 1st July next, the estimates of expenditure and of fees derived from licences under the Ordinance have been reduced to £1,000 each.

7. Copies of this despatch, together with copies of the printed Ordinance, are being sent to the governments of Uganda and the Tanganyika Territory.

I have the honour to be,
Sir,
your most obedient,
humble servant,



GOVERNOR'S DEPUTY.

1937



Colony and Protectorate of Kenya

IN THE SECOND YEAR OF THE REIGN OF

HIS MAJESTY KING GEORGE VI

HENRY ROBERT MOORE BROOKE-POPHAM
G.C.V.O., K.C.B., G.M.G., D.S.O., A.F.C. Governor

Assented to in His Majesty's
name this day of

1937.

29 DEC 1937

R. BROOKE-POPHAM

Governor

AN ORDINANCE TO PROVIDE FOR THE
CO-ORDINATION AND CONTROL OF MEANS
OF AND FACILITIES FOR TRANSPORT

ORDINANCE No. XL of 1937

An Ordinance to provide for the Co-ordination and Control of means of and facilities for Transport

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

PART I

PRELIMINARY

1. This Ordinance may be cited as the Transport Licensing Ordinance, 1937, and shall come into operation on such date or dates as the Governor may by proclamation appoint, and the Governor may appoint different dates for the different purposes and different parts or provisions of this Ordinance. Short title and commencement

2. In this Ordinance, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say— Interpretation.

"authorized vehicle" has the meaning assigned to it by section 5 of this Ordinance;

"carriage of goods" includes the haulage of goods;

"chairman" means the chairman of the Transport Licensing Board established under section 3 of this Ordinance;

"driver" in relation to a trailer means the driver of the vehicle by which the trailer is drawn, and where a separate person acts as steersman of a motor vehicle includes that person as well as any other person engaged in the driving of the vehicle, and the expression "drive" shall be construed accordingly;

"fares" includes sums payable in respect of a contract ticket or a season ticket;

"goods" includes goods or burden of any description;

"goods vehicle" means a motor vehicle constructed or adapted for use for the carriage of goods or a trailer so constructed or adapted;

"licence" means a licence granted under this Ordinance;

"motor vehicle" means a mechanically propelled vehicle intended or adapted for use on roads;

"owner" in relation to a vehicle which is the subject of a hiring agreement or hire purchase agreement means the person in possession of the vehicle under that agreement;

"prescribed" means prescribed by Regulations;

"public interest" means the interests and convenience of the inhabitants of the Colony as a whole;

"Regulations" means regulations made by the Governor in Council under this Ordinance;

"ship" includes every description of vessel used in navigation propelled otherwise than by oars or hand paddles and every lighter, barge, or like vessel used in navigation however propelled;

"trailer" means a vehicle drawn by a motor vehicle;

"public service vehicle" means a motor vehicle constructed or adapted for the carriage of both passengers and goods;

"road" means the carriageway or portion of any road to which the public has right of access for vehicular traffic being that portion commonly in use for vehicular traffic and includes the portion of any bridge used for that purpose;

"road authority" means the Director of Public Works or his duly authorized representative, except where the roads or any of them within any area or district have been vested in a local authority under any Ordinance, in which case the local authority or its duly authorized representative is the road authority for the purposes of this Ordinance.

PART II

APPOINTMENT OF TRANSPORT LICENSING BOARD AND LICENSING OF FORMS OF TRANSPORT

3. (1) There is hereby established a Transport Licensing Board (in this Ordinance referred to as "the Licensing Authority") which shall consist of—

(a) the Attorney General, who shall be chairman; and

(b) four other persons as the Governor in Council may from time to time nominate.

When the Governor in Council proposes to nominate a person to the Licensing Authority he shall, before making the nomination, require such person to declare whether he has any, and if so what, financial interest in any transport undertaking operating in the Colony.

(2) No person shall be appointed a nominated member of the Licensing Authority—

(a) if he is insolvent or has assigned his estate for the benefit of his creditors or has made an arrangement with his creditors;

(b) if he is of unsound mind or has been convicted of an offence and sentenced to imprisonment therefor without the option of a fine.

(3) A nominated member of the Licensing Authority shall become disqualified to retain, and shall *ipso facto* cease to hold, his office as such member if he becomes subject to any of the disabilities set out in the last preceding sub-section or if he is absent from four consecutive meetings of the Licensing Authority without the leave of the Licensing Authority.

(4) The Governor in Council may remove, on the ground of incapacity or misbehaviour, any nominated member of the Licensing Authority from his office.

(5) If a nominated member of the Licensing Authority be removed or vacate his office under this section, or die or resign before the expiry of the period for which he was appointed, his place shall be filled by an appointment by the Governor in Council; and any person appointed to fill the place of any such nominated member shall hold office for the remainder of the period for which such nominated member would otherwise have held office.

(6) The nominated members of the Licensing Authority shall hold office for three years, and each such nominated member shall be eligible for renomination to the Licensing Authority at the expiration of each such period.

(7) In the absence of the Attorney General from any meeting of the Licensing Authority the chairman for such meeting shall be a public officer authorized in writing by the Attorney General.

(8) At all meetings of the Licensing Authority the Attorney General, or the public officer authorized by him under sub-section (7) of this section, together with two other members of the Licensing Authority shall form a quorum.

(9) Meetings of the Licensing Authority shall be held at such times, on such occasions and at such places as the chairman may determine.

(10) The chairman shall have a deliberative vote and in the case of equality of votes shall also have a casting vote. A decision of the majority of the members present at a meeting of the Licensing Authority shall be deemed to be the decision of the Licensing Authority.

(11) The business of the Licensing Authority shall be conducted in such manner as may be prescribed:

Provided that until such procedure has been prescribed, the Licensing Authority shall conduct its business in such manner as the chairman may determine.

(12) The Governor in Council may appoint such persons to act as officers and servants of the Licensing Authority as he considers requisite to enable it to discharge its duties under this Ordinance.

(13) There shall be paid from the revenues of the Colony to the members of the Licensing Authority and to the officers and servants appointed under sub-section (12) of this section such salaries, remuneration and allowances, if any, as the Governor in Council may determine.

(14) The Licensing Authority may delegate to any individual member of the Licensing Authority, or to any Provincial Commissioner, District Commissioner or any other person, any of its functions under this Ordinance:

Provided that any act done by any such individual member of the Licensing Authority, or by any such Provincial Commissioner, District Commissioner or other person, shall be subject to the prior approval of the chairman.

(15) All licences issued under this Ordinance and all communications from the Licensing Authority shall be under the hand of the chairman or of some other public officer duly authorized by the chairman. A notification of any such authorization shall be published in the Gazette under the hand of the chairman.

(16) The chairman shall submit to the Governor for publication an annual report of the proceedings of the Licensing Authority containing particulars with respect to such matters as the Governor may direct.

(17) No member of the Licensing Authority or any officer thereof shall be personally liable for any act or default done or omitted to be done in good faith in the course of the operations of the Licensing Authority under the provisions of this Ordinance.

Licensing
Authority to
submit
annual
report.

4. (1) No person shall, except under and in accordance with the terms of a licence—

(a) use a motor vehicle on a road for the carriage of goods—

(i) for hire or reward; or

(ii) for or in connexion with any trade or business carried on by him.

(b) for hire or reward convey any person by means of any motor vehicle designed to carry more than six persons, and the driver of such vehicle;

(c) upon the inland waters of the Colony convey by means of any ship—

(i) any goods or any person for hire or reward; or

(ii) any goods for or in connexion with any trade or business carried on by him.

(2) When a goods vehicle is being used on a road for the carriage of goods the driver of the vehicle, if it belongs to him or is in his possession under an agreement for hire, hire purchase or loan, and in any other case the person in whose ownership or possession the vehicle is, shall for the purposes of this Ordinance be deemed to be the person by whom the vehicle is being used.

(3) Where at any time goods are carried in a goods vehicle, being a vehicle which has been let on hire by the person who at the time of the carriage of the goods is within the meaning of this Ordinance the user of the vehicle, the goods shall be deemed to be carried by that person for hire or reward.

(4) For the purposes of this Ordinance—

(a) the delivery or collection by a person of goods sold, used or let on hire or hire purchase in the course of a trade or business carried on by him;

(b) the delivery or collection by a person of goods which have been, or are to be, subjected to a process or treatment in the course of a trade or business carried on by him;

(c) the carriage by a person engaged in agriculture in any locality of goods for or in connexion with the business of agriculture carried on by another person

in that locality, so long as the goods are carried in a vehicle which the person carrying them is authorized by a licence to use for the carriage of goods for or in connexion with his agricultural business;

(d) the carriage of goods in a vehicle which is being used under, and in accordance with the regulations applicable to, a licence taken out by a manufacturer or dealer under section 11 of the Traffic Ordinance, 1928, or by a repairer of mechanically propelled vehicles;

(e) the carriage of goods in a vehicle by a manufacturer, agent or dealer, whilst the vehicle is being used by him for demonstration purposes.

shall not be deemed to constitute a carrying of goods for hire or reward.

(5) It is hereby declared that, for the purposes of this Ordinance, the performance by a local or public authority of its functions shall be deemed to be the carrying on of a business.

(6) This section shall not apply—

(a) to the use for any purpose other than the carriage of goods for hire or reward of a trailer when drawn by a vehicle constructed solely for the carriage of not more than six passengers, including the driver, and their effects;

(b) to the use of a vehicle for the purposes of funerals;

(c) to the use by a local authority, or a person acting in pursuance of a contract with a local authority, of a vehicle for road cleansing, road watering or the collection or disposal of refuse, night-soil, or the contents of cesspools, or for the purpose of any law relating to the weights and measures or the sale of food and drugs;

(d) to the use of a vehicle for towing a disabled motor vehicle or for removing goods from a disabled vehicle to a place of safety;

(e) to the use of any ship owned by the Government of the Colony or by the High Commissioner for Transport for the Colony of Kenya and the Protectorate of Uganda;

No. 26 of 1928

(f) to the use of any vehicle or class of vehicles exempted by the Governor in Council by notice in the Gazette. For the purposes of this paragraph "vehicle" includes any ship.

(7) If any person uses a goods vehicle, motor vehicle or ship in contravention of this section he shall be guilty of an offence against this Ordinance.

5. (1) The following classes of licences may be issued under the provisions of this Ordinance:—

Classes of licences.

(a) For goods vehicles—

- (i) a public carrier's licence,
- (ii) a limited carrier's licence,
- (iii) a private carrier's licence.

(b) For passenger and public service vehicles—
a road service licence.

A road service licence issued in respect of a public service vehicle may authorize the holder to carry for hire or reward both goods and passengers.

(c) For ships—
an inland water transport licence.

(2) A public carrier's licence (in this Ordinance referred to as an A licence) shall entitle the holder thereof to use the authorized vehicles, subject to any conditions attached to the licence, for the carriage of goods for or in connexion with his business as a carrier of goods, but, unless the Licensing Authority, in its discretion, otherwise determines, it shall be a condition of the licence that no vehicle which is for the time being an authorized vehicle shall be used for the carriage of goods for or in connexion with any other trade or business carried on by him except such storage or warehousing of goods as may be incidental to his business as a carrier.

In relation to a licence held by a person carrying on a dock or harbour undertaking the reference in this sub-section to the use of authorized vehicles for the carriage of goods for or in connexion with the business of the holder of a licence as a carrier of goods shall include a reference to the use of such vehicles for the carriage of goods for or in connexion with that undertaking.

(3) A limited carrier's licence (in this Ordinance referred to as a B licence) shall entitle the holder thereof to use the authorized vehicles as he thinks fit from time to time, subject to any conditions attached to the licence, for the carriage of goods for or in connexion with any trade or business carried on by him and (to such extent as may be limited by the conditions attached to the licence) for the carriage of goods for hire or reward.

(4) A private carrier's licence (in this Ordinance referred to as a C licence) shall entitle the holder thereof to use the authorized vehicles, subject to any conditions attached to the licence, for the carriage of goods for or in connexion with any trade or business carried on by him, but it shall be a condition of the licence that no vehicle which is for the time being an authorized vehicle shall be used for the carriage of goods for hire or reward other than goods sold and delivered by the holder in cases where under the contract of sale a charge is made for delivery of the goods.

Notwithstanding anything in this Ordinance contained, the Licensing Authority may, in case of emergency and subject to such conditions as it thinks fit to impose, authorize the holder of a C licence to use an authorized vehicle for the carriage of goods for any person to whom he lets the vehicle, if the authority is satisfied that the needs of that person cannot conveniently be met from other sources.

(5) In this Ordinance the expression "authorized vehicle" means in relation to any licence a vehicle authorized to be used thereunder.

(6) The vehicles authorized to be used under a licence shall be—

- (a) such motor vehicles, being vehicles belonging to the holder of the licence or in his possession under a hire purchase agreement, as are specified in the licence;
- (b) motor vehicles from time to time in the possession of the holder of the licence under an agreement for hire or loan, not exceeding at any time such maximum number as is specified in the licence;
- (c) trailers from time to time belonging to the holder of the licence or in his possession under an agreement for hire purchase, hire or loan, not exceeding at

any time such maximum number as is specified in the licence;

(d) in the case of a C licence, subject to the provisions of the next succeeding sub-section, any motor vehicle belonging to the holder of the licence or in his possession under a hire purchase agreement, but acquired by him, or coming into his possession under such an agreement, only after the grant of the licence.

For the purposes of paragraph (b) or paragraph (c) of this sub-section, different types of motor vehicles or different types of trailers, as the case may be, may be distinguished in a licence and a maximum number may be specified in the licence for vehicles or trailers of each type.

(7) A motor vehicle which is acquired by, or under a hire purchase agreement comes into the possession of, the holder of a C licence after the grant thereof shall cease to be an authorized vehicle on the expiration of one month from the date on which it was acquired by him or came into his possession, unless before the expiration of that period the holder delivers to the Licensing Authority a notice in the prescribed form of the vehicle having been acquired by him or having come into his possession.

(8) A motor vehicle specified in the licence shall not, while it remains so specified, be capable of being effectively specified in any other licence.

(9) A person may be the holder of two or more licences whether of the same class or of different classes.

6. (1) Subject to the provisions of sub-section (2) of this section, every licence shall, unless previously revoked, remain in force until the thirty-first day of December in the year in which it is issued: Provided that if on the date of the expiration of a licence proceedings are pending before the Licensing Authority on an application for the grant of a new licence in substitution for an existing licence held by the applicant, the existing licence shall continue in force until such application is disposed of.

Duration of licences.

(2) With a view to enabling goods vehicles, passenger-carrying vehicles or any ship to be used temporarily—

- (a) for the purpose of a seasonal business;

(b) for the purpose of the execution of a particular piece of work; or

(c) for any other purpose of limited duration.

a licence of any class may be granted for a period of less than one year, but not exceeding three months, and any licence granted under this or the next following sub-section is in this Ordinance referred to as a short-term licence.

(3) If on the date of the expiration of a goods vehicle licence, other than a short-term licence, proceedings are pending before the Licensing Authority on an application by the holder of that licence for the grant to him of a new licence, the existing licence shall continue in force until the application is disposed of, without prejudice, however, to the exercise in the meantime of the powers of suspension and revocation conferred by this Ordinance.

Licence not transferable.

7. No licence of any class shall be transferable except with the written consent of the Licensing Authority, and in the case of an exclusive licence, with the written consent of the Governor in Council, endorsed on such licence.

Protection of public interest.

8. (1) It is hereby declared that nothing in this Ordinance is to be treated as conferring on the holder of a licence of any class any right to the continuance of any benefits arising from the provisions of this Ordinance, or from a licence, or from any conditions attached to a licence.

(2) The grant of a licence of any class under this Ordinance shall not relieve the holder from complying with the provisions of any law in force in respect to motor vehicles or ships.

Exclusive licences.

9. (1) Notwithstanding any other provisions of this Ordinance, the Licensing Authority may, with the approval of the Governor in Council, and subject to such conditions as it may think fit to impose, grant to any person an exclusive licence authorizing such person to operate vehicles or ships, as the case may be, for the carriage of passengers or goods in such areas, over such routes or between such places and for such period as the Licensing Authority may decide, and the provisions of this Ordinance regarding applications for and objections to the grant of a licence shall apply to the applications for and grant of any exclusive licence as herein mentioned.

(2) Where the Licensing Authority intends to grant an exclusive licence under the provisions of sub-section (1) of this section, it shall by notice in the Gazette and in a local newspaper circulating in the area to which the proposed exclusive licence relates, give notice of its intention to grant such licence, and no such licence shall be granted until a period of six months after the date of publication of such notice has elapsed.

PART III

PROCEDURE ON APPLICATION FOR LICENCES

A—GOODS VEHICLE LICENCES

10. (1) In the case of goods vehicles, a person applying for a licence shall submit to the Licensing Authority a statement in the prescribed form—

Procedure on application for goods vehicles licences.

(a) containing, as respects motor vehicles proposed to be used under the licence which belong to the applicant or are in his possession under a hire purchase agreement or which if the application is granted he intends to acquire or obtain possession of under such an agreement, such particulars as may be prescribed;

(b) stating the number and type of hired motor vehicles and of trailers proposed to be so used; and

(c) specifying, in the case of an application for an A licence or a B licence, the facilities for the transport of goods intended to be provided by him under the licence for other persons, including particulars of the district within which, or the places between which, it is intended that the authorized vehicles will normally be used for the purpose of carrying goods for hire or reward, and the rates proposed to be charged therefor.

(2) A separate application shall be made in respect of each permanent base or centre from which it is intended that the authorized vehicles will normally be used:

Provided that where applications are made by a person for an A or B licence in respect of two or more bases or centres the Licensing Authority may, if it thinks fit, grant a single licence in respect of those applications or any of them.

Discretion of Licensing Authority to grant or refuse goods vehicle licences

11. (1) Subject to the provisions of the next succeeding section, the Licensing Authority—

- (a) on an application for an A licence or for a B licence, shall have full power in its discretion either to grant or to refuse the application, or to grant a licence subject to such conditions as it may impose or to grant a licence in respect of motor vehicles other than those of which particulars were contained in the application, or in respect of motor vehicles or trailers less in number than, or differing in type from, those for the use of which authorization was applied for; and
- (b) on an application for a C licence, shall grant the application, subject to such conditions as may be necessary in the public interest, unless the applicant is the holder of a licence which is suspended, or unless a licence previously held by him has been revoked, in either of which cases the Licensing Authority shall have full power in its discretion either to grant or to refuse the application

(2) The Licensing Authority in exercising its discretion shall have regard primarily to the public interest, including the interest or interests of persons requiring, as well as those of persons providing, facilities for transport, and, in particular, shall have regard in the case of an application for an A licence or for a B licence—

- (a) where the applicant is the holder of an existing licence of the same class, to the extent to which he is authorized to use goods vehicles thereunder for the carriage of goods for hire or reward;
- (b) to the previous conduct of the applicant in the capacity of a carrier of goods;
- (c) to the number and type of vehicles proposed to be used under the licence;
- (d) in determining the number of vehicles to be authorized, to the need for providing for occasions when vehicles are withdrawn from service for overhaul or repair,

and, in the case of an application for a B licence, also to the extent to which the applicant intends that the vehicles proposed to be used under the licence shall be used for the carriage of goods for hire or reward.

Protection of existing interests.

12. (1) If, on an application for an A or B licence or an inland water transport licence, made not later than such date as the Governor in Council may by notice in the Gazette appoint, the applicant shows to the satisfaction of the Licensing Authority that, during the twelve months immediately preceding such date, he carried on either wholly or mainly the business of a carrier of goods for hire or reward, the Licensing Authority shall, unless it is satisfied that, having regard to the previous character of the applicant as a carrier of goods, he is not a fit person to receive a licence, grant to the applicant a licence of the class applicable to the business carried on by him in respect of the vehicles or ships, as the case may be, regularly employed by him during the said twelve months in such business:

Provided that the Licensing Authority may if it thinks fit permit the applicant to substitute for the said vehicles, or ships, as the case may be, employed by him as aforesaid, vehicles or ships of a similar type or, in the case of an application for an A or B licence, vehicles of an aggregate weight unladen not greater than the aggregate weight unladen of the said vehicles.

(2) Any licence granted pursuant to the provisions of this section shall be subject to the provisions of section 17 of this Ordinance.

(3) The provisions of this section shall apply only to an application for a licence in respect of the first year of the operation of this Ordinance and thereafter the provisions of section 11 of this Ordinance shall apply.

B—ROAD SERVICE LICENCES.

13. (1) Every person applying for a road service licence shall submit to the Licensing Authority—

Procedure on application for a road service licence.

- (a) particulars of the type or types of vehicles to be used; and
- (b) in the case of regular services, the time-tables and fare-tables of the services which it is proposed to provide under the licence; and
- (c) in any other case, such particulars as to the frequency of the services and the times expected to be taken on the journeys included in those services as the Licensing Authority may require.

Discretion of
Licensing
Authority to
grant or
refuse goods
vehicle licences

11. (1) Subject to the provisions of the next succeeding section, the Licensing Authority—

(a) on an application for an A licence or for a B licence, shall have full power in its discretion either to grant or to refuse the application, or to grant a licence subject to such conditions as it may impose or to grant a licence in respect of motor vehicles other than those of which particulars were contained in the application, or in respect of motor vehicles or trailers less in number than, or differing in type from, those for the use of which authorization was applied for; and

(b) on an application for a C licence, shall grant the application, subject to such conditions as may be necessary in the public interest, unless the applicant is the holder of a licence which is suspended, or unless a licence previously held by him has been revoked, in either of which cases the Licensing Authority shall have full power in its discretion either to grant or to refuse the application.

(2) The Licensing Authority in exercising its discretion shall have regard primarily to the public interest, including the interest or interests of persons requiring, as well as those of persons providing, facilities for transport, and, in particular, shall have regard in the case of an application for an A licence or for a B licence—

(a) where the applicant is the holder of an existing licence of the same class, to the extent to which he is authorized to use goods vehicles thereunder for the carriage of goods for hire or reward;

(b) to the previous conduct of the applicant in the capacity of a carrier of goods;

(c) to the number and type of vehicles proposed to be used under the licence;

(d) in determining the number of vehicles to be authorized, to the need for providing for occasions when vehicles are withdrawn from service for overhaul or repair.

and, in the case of an application for a B licence, also to the extent to which the applicant intends that the vehicles proposed to be used under the licence shall be used for the carriage of goods for hire or reward.

12. (1) If, on an application for an A or B licence or an inland water transport licence, made not later than such date as the Governor in Council may by notice in the Gazette appoint, the applicant shows to the satisfaction of the Licensing Authority that, during the twelve months immediately preceding such date, he carried on either wholly or mainly the business of a carrier of goods for hire or reward, the Licensing Authority shall, unless it is satisfied that, having regard to the previous character of the applicant as a carrier of goods, he is not a fit person to receive a licence, grant to the applicant a licence of the class applicable to the business carried on by him in respect of the vehicles or ships, as the case may be, regularly employed by him during the said twelve months in such business:

Protection of
existing
interests.

Provided that the Licensing Authority may if it thinks fit permit the applicant to substitute for the said vehicles, or ships, as the case may be, employed by him as aforesaid, vehicles or ships of a similar type or, in the case of an application for an A or B licence, vehicles of an aggregate weight unladen not greater than the aggregate weight unladen of the said vehicles.

(2) Any licence granted pursuant to the provisions of this section shall be subject to the provisions of section 17 of this Ordinance.

(3) The provisions of this section shall apply only to an application for a licence in respect of the first year of the operation of this Ordinance and thereafter the provisions of section 11 of this Ordinance shall apply.

B—ROAD SERVICE LICENCES

13. (1) Every person applying for a road service licence shall submit to the Licensing Authority—

Procedure on
application for a
road service
licence.

(a) particulars of the type or types of vehicles to be used; and

(b) in the case of regular services, the time-tables and fare-tables of the services which it is proposed to provide under the licence; and

(c) in any other case, such particulars as to the frequency of the services and the times expected to be taken on the journeys included in those services as the Licensing Authority may require.

(2) If the licence is required in respect of a public service vehicle, the applicant shall also furnish the particulars required, in the case of an application for an "A" or "B" licence, under paragraph (c) of sub-section (1) of section 10 of this Ordinance.

14. (1) On an application for a road service licence, the Licensing Authority shall not grant such licence if it appears to it from the particulars furnished in pursuance of section 13 of the Ordinance that the provisions of the Traffic Ordinance, 1928, relating to the speed of motor vehicles are likely to be contravened, and in exercising its discretion to grant or refuse a road service licence in respect of any routes and its discretion to attach conditions to any such licence shall have regard to the following matters—

- (a) the suitability of the routes on which a service may be provided under the licence;
- (b) the extent, if any, to which the needs of the proposed routes or any of them are already adequately served;
- (c) the extent to which the proposed service is necessary or desirable in the public interest;
- (d) the needs of the areas through which the proposed routes or any of them pass as a whole in relation to traffic (including the provision of adequate, suitable and efficient services, the elimination of unnecessary services and the provision of unremunerative services) and the co-ordination of all forms of passenger transport, including transport by rail.

and take into consideration any representations or objections which may be made in the prescribed manner by persons who are already providing transport facilities along or near to the routes or any part thereof or by any local authority in whose areas any of the routes is situate.

(2) In any case in which the Licensing Authority refuses to grant a licence, or grants a licence which differs from the licence applied for, or attaches conditions to which the applicant does not agree, the Licensing Authority shall, if requested by the applicant, state in writing the reasons for its decision.

Discretion of Licensing Authority to grant or refuse a road service licence No. 26 of 1928

C—INLAND WATER TRANSPORT LICENCES

15. (1) In the case of a ship every person applying for a licence for the carriage of passengers and/or goods shall submit to the Licensing Authority—

Procedure on application for inland water transport licence.

- (a) particulars of the type or types of ships to be used;
- (b) particulars of the construction of such ship;
- (c) the total number of crew to be carried in such ship;
- (d) the number of passengers such ship is intended to carry;
- (e) the places between which such ship is intended to be navigated, and the services to be provided thereby.

(2) The Licensing Authority, on an application for an inland water transport licence, shall have full power in its discretion either to grant or refuse the application, but in exercising its discretion shall have regard primarily to the public interest, to the extent to which the existing transport services serve the routes proposed to be served in the application and to the fares and rates proposed to be charged.

Discretion of Licensing Authority to grant or refuse inland water transport licence.

Provided that, where such application is for a licence to carry passengers and/or goods over any route which includes a portion of the inland waters of either the Uganda Protectorate or the Tanganyika Territory, or both of those territories, before adjudicating upon such application the Licensing Authority shall take such steps as may appear to it to be necessary to ascertain the views upon such application of any Licensing Authority appointed in either or both of those territories.

D—GENERAL

16. A person applying for a licence under the provisions of this Part shall, in addition to the particulars which he is required under the provisions of this Part to furnish with his application, give to the Licensing Authority any information which it may reasonably require for the discharging of its duties in relation to the application and in particular shall, if required by the Licensing Authority, submit to the Licensing Authority such particulars as the Licensing Authority may require with respect to any business as a carrier of passengers or goods for hire or reward carried on by the applicant at any time before the making of the application and of the rates charged or proposed to be charged by the applicant and of the wages and conditions and hours of employment of persons employed in connexion with the vehicles or ships proposed to be used under the licence.

Power to call for further particulars.

PART IV

CONDITIONS, VARIATION, REVOCATION AND SUSPENSION OF LICENCES. PENALTY FOR NON-COMPLIANCE WITH CONDITIONS OF LICENCES AND OBJECTIONS TO APPLICATIONS AND APPEALS IN CONNEXION WITH LICENCES.

Conditions of Licences.

17. (1) It shall be a condition of every goods vehicle or road service licence—

- (a) that any authorized vehicles are maintained in a fit and serviceable condition;
- (b) that the provisions of any law for the time being in force relating to limits of speed and weight, laden and unladen, the loading of goods vehicles, and the number of passengers to be carried, are complied with in relation to the authorized vehicles;
- (c) that the provisions of this Ordinance and of the Regulations relating to the keeping of records shall be complied with.

(2) The Licensing Authority may attach to a licence of any class all or any of the following conditions—

- (a) a condition that the authorized vehicles or ships shall or shall not be used in a specified area or over specified routes;
- (b) a condition that certain classes or descriptions of goods shall or shall not be carried;
- (c) a condition specifying the charges or the maximum or minimum charges to be made for the carriage of goods;
- (d) conditions as to the wages, conditions and hours of employment of persons employed in connexion with the authorized vehicles or ships;
- (e) a condition specifying the types and sizes of tyres that shall or shall not be used on the authorized vehicles;
- (f) such other conditions as may be prescribed in the public interest or with a view to preventing un-economic competition.

and in addition to the above in the case of goods vehicle or road service licences—

- (g) a condition specifying the maximum laden weights of any authorized vehicle;

- (h) a condition specifying the number and type of vehicles and trailers to be used,

and in addition to the above in the case of B licences—

- (i) a condition that they shall be so used only in a specified district or between specified places;
- (j) a condition that goods shall be so carried only for specified persons.

(3) Subject to the provisions of section 14 of the Ordinance and to the Regulations, the Licensing Authority may attach to a road service licence such conditions as it may think fit with regard to the matters to which it is required to have regard under that section, and in particular for securing that—

- (a) the fares shall not be unreasonable;
- (b) where desirable in the public interest the fares shall be so fixed as to prevent wasteful competition with alternative forms of transport, if any, along the routes or any part thereof, or in proximity thereto;
- (c) copies of the time-table and fare-table shall be carried and be available for inspection in vehicles used on the service;
- (d) passengers shall not be taken up or shall not be set down except at specified points or shall not be set down between specified points,

and generally for securing the safety and convenience of the public; and the Licensing Authority may from time to time vary in such manner as it thinks fit the conditions attached to a road service licence.

(4) The Licensing Authority may, from time to time, cancel or vary any of the conditions attached to a licence under the provisions of this Ordinance.

18. (1) On the application of the holder of a goods vehicle licence of any class the Licensing Authority by whom the licence was granted may at any time during its currency vary the licence by directing that additional vehicles shall be specified therein, or that vehicles specified therein shall be removed therefrom, or that the maximum number of motor vehicles or of trailers specified in the licence in pursuance of paragraphs (b) and (c) respectively of sub-section (6) of section 5 of this Ordinance shall be increased or reduced.

Variation of goods vehicle licences.

(2) The foregoing provisions of this Ordinance as to applications for goods vehicle licences of any class, as to the grant or refusal of licences of any class (except the provisions of section 12), and as to the attaching of conditions to goods vehicle licences, shall apply in relation to the variation of any such licence: Provided that the Licensing Authority shall be bound to grant an application for a variation consisting only of the removal of a specified vehicle from the licence, or of a reduction in the maximum number specified as aforesaid, or of the specification in the licence in substitution for a specified vehicle of a vehicle of the same or of a less weight unladen.

(3) Where it comes to the knowledge of the Licensing Authority that a vehicle specified in a licence has ceased to be used under the licence for any reason other than a fluctuation in business, or is specified in another licence, it may vary the licence by directing that the vehicle shall be removed therefrom.

(4) When a Licensing Authority by whom a C licence was granted receives notice under sub-section (7) of section 5 of this Ordinance that the holder of the licence has acquired, or come into possession of, a vehicle as therein mentioned, it shall vary the licence by directing that the vehicle shall be specified therein.

19. (1) A licence of any class may be revoked or suspended by the Licensing Authority on the ground that any of the conditions of the licence have not been complied with.

(2) In any case where a licence is revoked or suspended the Licensing Authority shall, if requested by the licenceholder, state in writing under the hand of the chairman the grounds for the revocation or suspension.

(3) The Licensing Authority may, in lieu of revoking or suspending a goods vehicle licence, direct that any one or more of the vehicles specified therein shall be removed therefrom, or that the maximum number of motor vehicles or of trailers specified in the licence in pursuance of paragraphs (b) and (c) respectively of sub-section (6) of section 5 of this Ordinance shall be reduced, and references in this or any other section of this Ordinance to the revocation or suspension of a licence shall be construed as including a reference to the giving of a direction under this sub-section.

Power to revoke or suspend licences.

20. (1) Subject to the provisions of this section, any person who fails to comply with any condition of a licence of any class held by him shall be guilty of an offence against this Ordinance.

Penalty for non-compliance with and exceptions from conditions of licences.

(2) In the case of a goods vehicle licence, and notwithstanding that a vehicle is an authorized vehicle, the conditions of the licence shall not apply while the vehicle is being used for any purpose for which it might lawfully be used without the authority of a licence.

21. (1) The Licensing Authority shall, subject as in this section hereinafter contained, publish in the prescribed manner notice of an application for a goods vehicle or road service licence specifying the time within which and the manner in which objections may be made to the grant of the application.

Objections to certain applications or variations of goods vehicle or road service licences.

(2) It shall be the duty of the Licensing Authority, on an application to which this section applies, to take into consideration any objections to the application which may be made by any local authority in whose area the routes intended to be served are situate, or by persons who are already providing facilities, whether by means of road transport or any other kind of transport, for the carriage of goods or passengers for hire or reward in the district, or between the places, which the applicant intends to serve, on the ground that suitable transport facilities in that district, or between those places, are or, if the application were granted, would be, either generally or in respect of any particular type of vehicles, in excess of requirements, or contrary to public interest, or on the ground that any of the conditions of a licence held by the applicant have not been complied with: Provided that, on an application for the grant or variation of an A licence, the Licensing Authority shall not be bound to take into consideration objections made by a person who holds a B licence and does not hold an A licence.

(3) This section shall apply to every application for the grant for one year of an A licence or of a B licence, or for the variation of such a licence by a direction that additional vehicles shall be specified therein or that the maximum number of motor vehicles or of trailers specified in the licence in pursuance of paragraphs (b) and (c) respectively of sub-section (6) of section 5 of this Ordinance shall be increased, or, in the case of a B licence, that the district specified in the licence

within which, or the places so specified between which, the vehicles can be used for the carriage of goods for hire or reward shall be varied or extended, not being—

- (a) an application which the Licensing Authority is bound to grant; or
 - (b) an application for a licence to expire not later than an existing licence under which the vehicles to which the application relates are authorized to be used for the purposes of a business which the applicant has acquired or intends to acquire; or
 - (c) an application as respects which the Licensing Authority is of opinion that, having regard to its trivial character, it is not necessary that any opportunity should be given for objection.
- (4) This section shall apply to every application under sub-section (2) of section 6 of this Ordinance for a short-term licence unless the Licensing Authority is of opinion either—
- (a) that, having regard to the trivial nature of the application, it is not necessary that any opportunity should be given for objection; or
 - (b) that the application has been made with reasonable expedition and that the demand for the use of the vehicles to be authorized under the licence is so urgent as to render compliance with the requirements of this section impracticable.
- (5) The Licensing Authority may hold such inquiries as it thinks necessary for the proper exercise of its functions under this Ordinance, including inquiries into the applicant's reliability, financial stability, and the facilities at his disposal for carrying out mechanical repairs.

(6) Where, on an application for the grant of an A licence or a B licence, the Licensing Authority proposes to grant the application in respect of vehicles other than those of which particulars were contained in the application, it shall publish notice of its proposal as if that proposal were an application to which this section applies, and thereupon the provisions of this section with respect to the making and consideration of objections shall apply accordingly:

Provided that if shall not be necessary for the Licensing Authority to publish such a notice if it is satisfied that the

variation, subject to which it proposes to grant the application, will not materially increase the total carrying capacity of the authorized vehicles.

22. (1) The Licensing Authority shall, in the case of an application for an inland water transport licence, publish in the prescribed manner notice of such application specifying the time within which, and the manner in which, objections may be made to the grant of the licence.

Objections to applications for inland water transport licence.

(2) On any such application, the Licensing Authority shall take into consideration any objections to the application which may be made by persons who are already providing transport facilities for the carriage of goods or passengers for hire or reward between the same places which the applicant intends to serve.

23. (1) Any person who—

- (a) being an applicant for the grant or variation of a licence, is aggrieved by the decision of the Licensing Authority on the application; or
- (b) having duly made an objection to any such application as aforesaid, being an objection which the Licensing Authority is bound to take into consideration, is aggrieved by the decision of the Licensing Authority thereon; or
- (c) being the holder of a licence, is aggrieved by the revocation or suspension thereof,

Provision for appeals in connexion with licences.

may within the prescribed time and in the prescribed manner appeal to the Supreme Court.

(2) The case shall be heard by a judge of the Supreme Court to be assigned by the Chief Justice for the purpose.

(3) In hearing any such appeal such judge shall have all the powers which may be exercised by a judge in the hearing of an ordinary civil suit, and may permit any party to appear before him either personally or by advocate.

PART V

OFFENCES AND PROSECUTIONS

24. (1) If, with intent to deceive, any person—

- (a) forges within the meaning of Chapter XXXIV of the Penal Code, or alters or uses or lends to or allows to be used by any other person a licence, or any

Forgery, etc., of licences.

No. 10 of 1930.

within which, or the places so specified between which, the vehicles can be used for the carriage of goods for hire or reward shall be varied or extended, not being—

- (a) an application which the Licensing Authority is bound to grant; or
 - (b) an application for a licence to expire not later than an existing licence under which the vehicles to which the application relates are authorized to be used for the purposes of a business which the applicant has acquired or intends to acquire; or
 - (c) an application as respects which the Licensing Authority is of opinion that, having regard to its trivial character, it is not necessary that any opportunity should be given for objection.
- (4) This section shall apply to every application under sub-section (2) of section 6 of this Ordinance for a short-term licence unless the Licensing Authority is of opinion either—
- (a) that, having regard to the trivial nature of the application, it is not necessary that any opportunity should be given for objection; or
 - (b) that the application has been made with reasonable expedition and that the demand for the use of the vehicles to be authorized under the licence is so urgent as to render compliance with the requirements of this section impracticable.
- (5) The Licensing Authority may hold such inquiries as it thinks necessary for the proper exercise of its functions under this Ordinance, including inquiries into the applicant's reliability, financial stability, and the facilities at his disposal for carrying out mechanical repairs.
- (6) Where, on an application for the grant of an A licence or a B licence, the Licensing Authority proposes to grant the application in respect of vehicles other than those of which particulars were contained in the application, it shall publish notice of its proposal as if that proposal were an application to which this section applies, and thereupon the provisions of this section with respect to the making and consideration of objections shall apply accordingly:

Provided that it shall not be necessary for the Licensing Authority to publish such a notice if it is satisfied that the

variation, subject to which it proposes to grant the application, will not materially increase the total carrying capacity of the authorized vehicles.

22. (1) The Licensing Authority shall, in the case of an application for an inland water transport licence, publish in the prescribed manner notice of such application specifying the time within which, and the manner in which, objections may be made to the grant of the licence.

Objections to applications for inland water transport licence.

(2) On any such application, the Licensing Authority shall take into consideration any objections to the application which may be made by persons who are already providing transport facilities for the carriage of goods or passengers for hire or reward between the same places which the applicant intends to serve.

23. (1) Any person who—

Provision for appeals in connexion with licences.

- (a) being an applicant for the grant or variation of a licence, is aggrieved by the decision of the Licensing Authority on the application; or
- (b) having duly made an objection to any such application as aforesaid, being an objection which the Licensing Authority is bound to take into consideration, is aggrieved by the decision of the Licensing Authority thereon; or
- (c) being the holder of a licence, is aggrieved by the revocation or suspension thereof,

may within the prescribed time and in the prescribed manner appeal to the Supreme Court.

(2) The case shall be heard by a judge of the Supreme Court to be assigned by the Chief Justice for the purpose.

(3) In hearing any such appeal such judge shall have all the powers which may be exercised by a judge in the hearing of an ordinary civil suit, and may permit any party to appear before him either personally or by advocate.

PART V

OFFENCES AND PROSECUTIONS

24. (1) If, with intent to deceive, any person—

Forgery, etc., of licences.

- (a) forges within the meaning of Chapter XXXIV of the Penal Code, or alters or uses or lends to or allows to be used by any other person a licence, or any

No. 10 of 1930.

document, plate or mark by which the subject of the licence is to be identified as being licensed under this Ordinance; or

(b) makes or has in his possession any document, plate or mark so closely resembling a licence, or any such document, plate or mark as aforesaid, as to be calculated to deceive; or

(c) alters an entry in a record under section 29 of this Ordinance.

he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

(2) If any person, for the purpose of obtaining the grant of a licence to himself or any other person, or the variation of a licence, or for the purpose of preventing the grant or variation of any licence or of procuring the importation of any condition or limitation in relation to a licence, knowingly makes any false statement, he shall be guilty of an offence under this Ordinance and be liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Prosecutions and penalties for offences

25. (1) A person guilty of an offence under this Ordinance for which no special penalty is provided shall be liable, in the case of a first offence, to a fine not exceeding twenty pounds, and in the case of a second and subsequent conviction to a fine not exceeding fifty pounds.

(2) If any person acts in contravention of, or fails to comply with, the Regulations, and contravention of or failure to comply with the Regulations is not made an offence under any other provision of this Ordinance, he shall, for each offence, be liable on conviction before a magistrate of the first or second class to such maximum penalty, not exceeding a fine of twenty pounds, as may be prescribed by the Regulations.

PART VI

MISCELLANEOUS PROVISIONS

Financial provisions

26. All fees payable under this Ordinance and all fines imposed in respect of offences under this Ordinance or the Regulations shall be paid into the general revenue of the Colony.

27. Such fees, payable at such times and in such manner as the Governor in Council may prescribe, shall be charged by the Licensing Authority in respect of the grant or variation of licences.

Fees in respect of licences.

28. (1) The Governor in Council may make Regulations for any purpose for which Regulations may be made under this Ordinance and for prescribing anything which may be prescribed under this Ordinance and generally for the purpose of carrying this Ordinance into effect, and, in particular, but without prejudice to the generality of the foregoing provisions, may make Regulations with respect to any of the following matters—

General power of making Regulations.

(a) the forms to be used and the particulars to be furnished for any of the purposes of this Ordinance;

(b) the procedure on applications for, and the determination of questions in connexion with, the grant, variation, suspension and revocation of licences;

(c) the issue of licences, and the issue of copies of licences in the case of licences lost or destroyed;

(d) the means by which vehicles or ships are to be identified, whether by plates, marks or otherwise, as being authorized for use under this Ordinance;

(e) the custody of licences, the production, return and cancellation of licences on expiration, suspension or revocation, and the custody, production and return of documents and plates; and

(f) the notification to the Licensing Authority of vehicles or ships which have ceased to be used under a licence.

and in the case of vehicles different Regulations may be made as respects different classes or descriptions thereof and as respects the same class or description of vehicles in different circumstances.

(2) All regulations made under this section shall have the same force and effect as if they had been enacted in this Ordinance and shall be laid as soon as conveniently may be before the Legislative Council; and if a resolution is passed within forty days of their being so laid before the Legislative Council praying that any such regulation shall be revoked or amended, such regulation shall thenceforth be deemed to be revoked or amended, but without prejudice to anything done thereunder.

Records as to
hours of work,
journeys,
loads, etc.

29. (1) Subject to the provisions of the Regulations, the holder of a licence shall, if required by the Licensing Authority, keep or cause to be kept, in accordance with the Regulations, current records showing—

- (a) as respects every person employed by him as a driver or statutory attendant of an authorized vehicle, or master of a ship, the times at which that person commenced and ceased work and particulars of his intervals of rest and the like information as respects himself when acting as such a driver or attendant or master;
- (b) as respects every journey of a vehicle or ship on which goods are carried under the licence, particulars of the journey, of the rates charged and of the greatest weight of goods carried by the vehicle or ship at any time during the period to which the record relates and the description and destination of the goods carried,

and the Regulations may make provision for requiring drivers of authorized vehicles and masters of ships, to carry the prescribed documents and to make any prescribed entries therein.

(2) Subject to the provisions of the Regulations, the Licensing Authority may dispense with the observance, as respects the carriage of goods under a licence granted by it, of any requirements of the Regulations, and may grant such dispensation either generally or as respects any particular vehicle or ship or as respects the use of vehicles or ships for any particular purpose.

(3) The holder of a licence shall preserve every record kept under the Regulations for a period of six months, commencing on the date on which the record is made, and for such further period, not exceeding six months, as may be required by the Licensing Authority or a police officer not below the rank of superintendent, and during the period for which he is required by or under this sub-section to preserve a record shall, if required so to do at any time by the Licensing Authority or by any person authorized in that behalf by the Licensing Authority or by any person authorized in that behalf by a police officer not below the rank of superintendent, produce the record for the inspection of the Licensing Authority or of the person so authorized.

(4) If any person fails to comply with the provisions of this section or of the Regulations, he shall be guilty of an offence under this Ordinance.

30. (1) Any police officer, or any other person duly authorized in writing by the Licensing Authority, may stop any vehicle or ship and/or inspect any vehicle or ship with a view to ascertaining whether or not the provisions of this Ordinance or of any Regulations made thereunder are being complied with, and may demand for inspection the production of any licence, certificate, document or record of any description whatsoever which may, under the provisions of this Ordinance or of any Regulations made thereunder, be required to be carried on such vehicle or ship, and may require the driver or any other person travelling on such vehicle or ship to give such information as such police officer or such authorized person may reasonably request in order to ascertain whether or not the provisions of this Ordinance or Regulations are being complied with.

Power to stop
and inspect
vehicles.

(2) Any person who obstructs any police officer or duly authorized person in the exercise of the powers conferred on such police officer or such authorized person by this section, or fails to comply with any lawful order given by such police officer or such authorized person or refuses to give any information when requested so to do by such police officer or such authorized person shall be guilty of an offence under this Ordinance.

31. Any police officer, of or above the rank of assistant sub-inspector, having reasonable grounds for believing that any person has committed an offence against this Ordinance and that such person will not attend the court in answer to any process which may be issued against him, may arrest such person without a warrant.

Arrest.

Passed in the Legislative Council the sixteenth day of December, in the year of our Lord one thousand nine hundred and thirty-seven.

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

R. W. BAKER-BEALL
Acting Clerk to the Legislative Council.

LEGAL REPORT

THE TRANSPORT LICENSING BILL, 1937

The object of this Bill is to provide for the co-ordination and control of transport, other than air transport, in the Colony.

The Bill has already been referred to the Secretary of State who approved of its introduction subject to certain amendments.

A Comparative Table together with a copy of the Bill as submitted to the Secretary of State but showing the amendments made during its passage through Legislative Council, is attached for transmission to the Secretary of State.

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

Nairobi,
16th December, 1937

W. Haney
ATTORNEY GENERAL

COMPARATIVE TABLE

THE TRANSPORT LICENSING BILL, 1937

Clause of the Bill.	Clause of the Bill as submitted to the Secretary of State.	Remarks.
1.	1.	Cf. Uganda Ordinance No. 28 of 1937 and Tanganyika Territory Ordinance No. 30 of 1937.
2.	2.	Definitions of "ship" and "public service vehicle" conform with the legislation of Uganda and Tanganyika Territory respectively.
3.	3.	Amplified. Sub-sections (2) to (5), (6) to (11) and (17) are new.
4.	4.	Amended so as to provide for dual purpose licences.
5.	5.	Amended. Cf. sub-section 5(1)(b) of the Tanganyika Ordinance.
6.	6.	Section 6(1) modified to facilitate the working of the Board, and the issue of licences.
7.	7.	
8.	8.	
9.	9.	Sub-section (2) is new. Cf. Tanganyika Territory proviso to section 13 and Uganda proviso to section 5(1).
10.	10.	
11.	11.	
12.	12.	Sub-sections (2) and (3) are new.
13.	13.	Section 13(2) is new. Cf. section 13(2) of the Tanganyika Territory Ordinance.
14.	14.	Section 14(2) is new and is inserted at the request of the Secretary of State. Cf. section 17(1) of the Tanganyika Territory Ordinance.
15.	15.	
16.	16.	
17.	17. sub-section (4) deleted.	Modified. Section 17(1)(e) is new. Section 17(1)(i) and (j) replace sub-clause (4).
18.	18.	
19.	19.	

Clause of the Bill.	Clause of the Bill as submitted to the Secretary of State.	Remarks.
20.	20.	
21.	21.	Amended to provide that the Local Authority may object to any licence within its jurisdiction.
22.	22.	
23.	23.	
24.	24. sub-clause (3) deleted.	Deleted at the request of the Secretary of State.
25.	25.	
26.	26.	
27.	27.	
28.	28.	Sub-section (2) is new.
29.	29.	Record-keeping made permissive.
30.		New. Cf. the Traffic Ordinance 1928, section 48.
31.	31.	Redrafted at the request of the Secretary of State. Cf. section 31 of the Tanganyika Territory Ordinance.

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COLONY AND PROTECTORATE OF KENYA



A BILL TO PROVIDE FOR THE CO-ORDINATION
AND CONTROL OF MEANS OF AND FACILITIES
FOR TRANSPORT

33

**A Bill to provide for the Co-ordination and Control
of means of and facilities for Transport**

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

PART I
PRELIMINARY

1. This Ordinance may be cited as the Transport Licensing Ordinance, 1937, and shall come into operation on such date or dates as the Governor may by proclamation appoint, and the Governor may appoint different dates for the different purposes and different parts or provisions of this Ordinance. Short title and commencement

2. In this Ordinance, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say— Interpretation

"authorized vehicle" has the meaning assigned to it by section 5 of this Ordinance;

"carriage of goods" includes the haulage of goods;

"chairman" means the chairman of the Transport Licensing Board established under section 3 of this Ordinance;

"driver" in relation to a trailer means the driver of the vehicle by which the trailer is drawn, and where a separate person acts as steersman of a motor vehicle includes that person as well as any other person engaged in the driving of the vehicle, and the expression "drive" shall be construed accordingly;

"fares" includes sums payable in respect of a contract ticket or a season ticket;

"goods" includes goods or burden of any description;

"goods vehicle" means a motor vehicle constructed or adapted for use for the carriage of goods or a trailer so constructed or adapted;

"licence" means a licence granted under this Ordinance;

*(9) Meetings of the Licensing Authority shall be held at such times, on such occasions and at such places as the chairman may determine. 139

(10) The chairman shall have a deliberative vote and in the case of equality of votes shall also have a casting vote. A decision of the majority of the members present at a meeting of the Licensing Authority shall be deemed to be the decision of the Licensing Authority.

(11) The business of the Licensing Authority shall be conducted in such manner as may be prescribed:

Provided that until such procedure has been prescribed, the Licensing Authority shall conduct its business in such manner as the chairman may determine.*

(12) No member of the Licensing Authority or any officer thereof shall be personally liable for any act or default done or omitted to be done in good faith in the course of the operations of the Licensing Authority under the provisions of this Ordinance.

"motor vehicle" means a mechanically propelled vehicle intended or adapted for use on roads;

"owner" in relation to a vehicle which is the subject of a hiring agreement or hire purchase agreement means the person in possession of the vehicle under that agreement;

"prescribed" means prescribed by Regulations;

"public interest" means the interests and convenience of the inhabitants of the Colony as a whole;

"Regulations" means regulations made by the Governor in Council under this Ordinance;

"ship" means every description of vessel used in navigation not propelled by oars;

"trailer" means a vehicle drawn by a motor vehicle;

"public service vehicle" means a motor vehicle constructed or adapted for the carriage of both passengers and goods;

"road authority" means the Director of Public Works or his duly authorized representative, except where the roads or any of them within any area or district have been vested in a local authority under any Ordinance, in which case the local authority or its duly authorized representative is the road authority for the purposes of this Ordinance.

**PART II
APPOINTMENT OF TRANSPORT LICENSING BOARD
AND LICENSING OF FORMS OF TRANSPORT**

Licensing Authority

5. (1) There is hereby established a Transport Licensing Board (in this Ordinance referred to as "the Licensing Authority") which shall consist of—

- (a) the Attorney General, who shall be chairman; and
- (b) four such other persons as the Governor in Council may from time to time nominate.

When the Governor in Council proposes to nominate a person to the Licensing Authority he shall, before making the nomination, require such person to declare whether he has any, and if so what, financial interest in any transport undertaking operating in the Colony.

(2) In the absence of the Attorney General from any meeting of the Licensing Authority the chairman for such

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"ship" means every description of vessel used in navigation not propelled by oars;

"trailer" means a vehicle drawn by a motor vehicle;

"public service vehicle" means a motor vehicle carrying passengers for hire or reward;

"road" means the carriageway or portion of any road to which the public has right of access for vehicular traffic being that portion commonly in use for vehicular traffic and includes the portion of any bridge used for that purpose;

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meeting shall be a public officer authorized in writing by the Attorney General.

(3) At all meetings of the Licensing Authority the Attorney General, or the public officer authorized by him under sub-section (2) of this section, together with two other members of the Licensing Authority shall form a quorum.

(4) The Governor in Council may appoint such persons to act as officers and servants of the Licensing Authority as he considers requisite to enable it to discharge its duties under this Ordinance.

(5) There shall be paid from the revenues of the Colony to the members of the Licensing Authority and to the officers and servants appointed under sub-section (4) of this section such salaries, remuneration and allowances, if any, as the Governor in Council may determine.

(6) The Licensing Authority may delegate to any individual member of the Licensing Authority, or to any Provincial Commissioner, District Commissioner or any other person, any of its functions under this Ordinance:

Provided that any act done by any such individual member of the Licensing Authority, or by any such Provincial Commissioner, District Commissioner or other person, shall be subject to the prior approval of the chairman.

(7) All licences issued under this Ordinance and all communications from the Licensing Authority shall be under the hand of the chairman or of some other public officer duly authorized by the chairman. A notification of any such authorization shall be published in the Gazette under the hand of the chairman.

(8) The chairman shall submit to the Governor for publication an annual report of the proceedings of the Licensing Authority containing particulars with respect to such matters as the Governor may direct.

Licensing Authority to submit annual report.

4. (1) No person shall, except under and in accordance with the terms of a licence—

Licensing of transport.

- (a) use a goods vehicle on a road for the carriage of goods—
 - (i) for hire or reward; or
 - (ii) for or in connexion with any trade or business carried on by him

"(b) for hire or reward convey any person by means of any motor vehicle designed to carry more than six persons and the driver of such vehicle;"

(i) not designed exclusively for the conveyance of ~~persons and their personal effects~~

(c) upon the inland waters of the Colony convey by means of any ship—

(i) any goods or any person for hire or reward; or
(ii) any goods for or in connexion with any trade or business carried on by him.

(2) When a goods vehicle is being used on a road for the carriage of goods the driver of the vehicle, if it belongs to him or is in his possession under an agreement for hire, hire purchase or loan, and in any other case the person in whose ownership or possession the vehicle is, shall for the purposes of this Ordinance be deemed to be the person by whom the vehicle is being used.

(3) Where at any time goods are carried in a goods vehicle, being a vehicle which has been let on hire by the person who at the time of the carriage of the goods is within the meaning of this Ordinance the user of the vehicle, the goods shall be deemed to be carried by that person for hire or reward.

(4) For the purposes of this Ordinance—

(a) the delivery or collection by a person of goods sold, used or let on hire or hire purchase in the course of a trade or business carried on by him;

(b) the delivery or collection by a person of goods which have been or are to be, subjected to a process or treatment in the course of a trade or business carried on by him.

(c) the carriage by a person engaged in agriculture in any locality of goods for or in connexion with the business of agriculture carried on by another person in that locality, so long as the goods are carried in a vehicle which the person carrying them is authorized by a licence to use for the carriage of goods for or in connexion with his agricultural business;

(d) the carriage of goods in a vehicle which is being used under, and in accordance with the regulations appli-

cable to, a licence taken out by a manufacturer or dealer under section 11 of the Traffic Ordinance, No. 26 of 1928, 1928, or by a repairer of mechanically propelled vehicles;

(e) the carriage of goods in a vehicle by a manufacturer, agent or dealer, whilst the vehicle is being used by him for demonstration purposes.

shall not be deemed to constitute a carrying of goods for hire or reward.

(5) It is hereby declared that, for the purposes of this Ordinance, the performance by a local or public authority of its functions shall be deemed to be the carrying on of a business.

(6) This section shall not apply—

(a) to the use for any purpose other than the carriage of goods for hire or reward of a trailer when drawn by a vehicle constructed solely for the carriage of not more than six passengers, including the driver, and their effects;

(b) to the use of a vehicle for the purposes of funerals;

(c) to the use by a local authority, or a person acting in pursuance of a contract with a local authority, of a vehicle for road cleansing, road watering or the collection or disposal of refuse, night-soil, or the contents of cesspools, or for the purpose of any law relating to the weights and measures or the sale of food and drugs;

(d) to the use of a vehicle for towing a disabled motor vehicle or for removing goods from a disabled vehicle to a place of safety;

(e) to the use of any ship owned by the Government of the Colony or by the High Commissioner for Transport for the Colony of Kenya and the Protectorate of Uganda;

(f) to the use of any vehicle or class of vehicles exempted by the Governor in Council by notice in the Gazette. For the purposes of this paragraph "vehicle" includes any ship.

(7) If any person uses a goods vehicle, motor vehicle or ship in contravention of this section he shall be guilty of an offence against this Ordinance.

5. (1) The following classes of licences may be issued under the provisions of this Ordinance:—

(a) For goods vehicles—

- (i) a public carrier's licence,
- (ii) a limited carrier's licence,
- (iii) a private carrier's licence.

(b) For passenger and public service vehicles—

a road service licence.

A road service licence is used in respect of a public service vehicle may authorise the holder to carry for hire or reward both goods and passengers.

the licence, for the carriage of goods for hire or reward, or for the carriage of goods for or in connexion with his business as a carrier of goods, unless the licence is for any other kind of transport, but

A Licensing Authority, in its discretion, otherwise

determines,

in connexion with any other trade or business carried on by him except such storage or warehousing of goods as may be incidental to his business as a carrier.

In relation to a licence held by a person carrying on a dock or harbour undertaking the reference in this sub-section to the use of authorized vehicles for the carriage of goods for or in connexion with the business of the holder of a licence as a carrier of goods shall include a reference to the use of such vehicles for the carriage of goods for or in connexion with that undertaking.

(3) A limited carrier's licence (in this Ordinance referred to as a B licence) shall entitle the holder thereof to use the authorized vehicles as he thinks fit from time to time, subject to any conditions attached to the licence, other for the carriage of goods for or in connexion with any trade or business carried on by him, or (to such extent as may be limited by the conditions attached to the licence) for the carriage of goods for hire or reward.

(4) A private carrier's licence (in this Ordinance referred to as a C licence) shall entitle the holder thereof to use the authorized vehicles, subject to any conditions attached to the licence, for the carriage of goods for or in connexion with any

trade or business carried on by him, but it shall be a condition of the licence that no vehicle which is for the time being an authorized vehicle shall be used for the carriage of goods for hire or reward other than goods sold and delivered by the holder in cases where under the contract of sale a charge is made for delivery of the goods.

Notwithstanding anything in this Ordinance contained, the Licensing Authority may, in case of emergency and subject to such conditions as it thinks fit to impose, authorize the holder of a C licence to use an authorized vehicle for the carriage of goods for any person to whom he lets the vehicle, if the authority is satisfied that the needs of that person cannot conveniently be met from other sources.

(5) In this Ordinance the expression "authorized vehicle" means in relation to any licence a vehicle authorized to be used thereunder.

(6) The vehicles authorized to be used under a licence shall be—

- (a) such motor vehicles, being vehicles belonging to the holder of the licence or in his possession under a hire purchase agreement, as are specified in the licence;
- (b) motor vehicles from time to time in the possession of the holder of the licence under an agreement for hire or loan, not exceeding at any time such maximum number as is specified in the licence;
- (c) trailers from time to time belonging to the holder of the licence or in his possession under an agreement for hire purchase, hire or loan, not exceeding at any time such maximum number as is specified in the licence;
- (d) in the case of a C licence, subject to the provisions of the next succeeding sub-section, any motor vehicle belonging to the holder of the licence or in his possession under a hire purchase agreement, but acquired by him, or coming into his possession under such an agreement, only after the grant of the licence.

For the purposes of paragraph (b) or paragraph (c) of this sub-section, different types of motor vehicles or different types of trailers, as the case may be, may be distinguished in a

5. (1) The following classes of licences may be issued under the provisions of this Ordinance:—

(a) For goods vehicles—

- (i) a public carrier's licence,
- (ii) a limited carrier's licence,
- (iii) a private carrier's licence.

(b) For passenger-carrying vehicles—
a road service licence.

(c) For ships—

an inland water transport licence.

(2) A public carrier's licence (in this Ordinance referred to as an A licence) shall entitle the holder thereof to use the authorized vehicles, subject to any conditions attached to the licence, for the carriage of goods for hire or reward, or for the carriage of goods for or in connexion with his business as a carrier of goods, ~~whether by road transport or any other kind of transport~~, but it shall be a condition of the licence that no vehicle which is for the time being an authorized vehicle shall be used for the carriage of goods for or in connexion with any other trade or business carried on by him except such storage or warehousing of goods as may be incidental to his business as a carrier.

In relation to a licence held by a person carrying on a dock or harbour undertaking the reference in this sub-section to the use of authorized vehicles for the carriage of goods for or in connexion with the business of the holder of a licence as a carrier of goods shall include a reference to the use of such vehicles for the carriage of goods for or in connexion with that undertaking.

(3) A limited carrier's licence (in this Ordinance referred to as a B licence) shall entitle the holder thereof to use the authorized vehicles as he thinks fit from time to time, subject to any conditions attached to the licence, ~~either~~ for the carriage of goods for or in connexion with any trade or business carried on by him ~~and~~ (to such extent as may be limited by the conditions attached to the licence) for the carriage of goods for hire or reward.

(4) A private carrier's licence (in this Ordinance referred to as a C licence) shall entitle the holder thereof to use the authorized vehicles, subject to any conditions attached to the licence, for the carriage of goods for or in connexion with any

trade or business carried on by him, but it shall be a condition of the licence that no vehicle which is for the time being an authorized vehicle shall be used for the carriage of goods for hire, or reward other than goods sold and delivered by the holder in cases where under the contract of sale a charge is made for delivery of the goods.

Notwithstanding anything in this Ordinance contained, the Licensing Authority may, in case of emergency and subject to such conditions as it thinks fit to impose, authorize the holder of a C licence to use an authorized vehicle for the carriage of goods for any person to whom he lets the vehicle, if the authority is satisfied that the needs of that person cannot conveniently be met from other sources.

(5) In this Ordinance the expression "authorized vehicle" means in relation to any licence a vehicle authorized to be used thereunder.

(6) The vehicles authorized to be used under a licence shall be—

(a) such motor vehicles, being vehicles belonging to the holder of the licence or in his possession under a hire purchase agreement, as are specified in the licence;

(b) motor vehicles from time to time in the possession of the holder of the licence under an agreement for hire or loan, not exceeding at any time such maximum number as is specified in the licence;

(c) trailers from time to time belonging to the holder of the licence or in his possession under an agreement for hire purchase, hire or loan, not exceeding at any time such maximum number as is specified in the licence;

(d) in the case of a C licence, subject to the provisions of the next succeeding sub-section, any motor vehicle belonging to the holder of the licence or in his possession under a hire purchase agreement, but acquired by him, or coming into his possession under such an agreement, only after the grant of the licence.

For the purposes of paragraph (b) or paragraph (c) of this sub-section, different types of motor vehicles or different types of trailers, as the case may be, may be distinguished in a

licence and a maximum number may be specified in the licence for vehicles or trailers of each type.

(7) A motor vehicle which is acquired by, or under a hire purchase agreement comes into the possession of, the holder of a C licence after the grant thereof shall cease to be an authorized vehicle on the expiration of one month from the date on which it was acquired by him or came into his possession, unless before the expiration of that period the holder delivers to the Licensing Authority a notice in the prescribed form of the vehicle having been acquired by him or having come into his possession.

(8) A motor vehicle specified in the licence shall not, while it remains so specified, be capable of being effectively specified in any other licence.

(9) A person may be the holder of two or more licences whether of the same class or of different classes.

Duration of
licences.

6. (1) Subject to the provisions of sub-section (3) of

every licence shall, unless previously revoked, be in force until the thirty-first day of December in which it is issued*:

application is disposed of—

(2) With a view to enabling goods vehicles, passenger-carrying vehicles or any ship to be used temporarily—

- (a) for the purpose of a seasonal business;
- (b) for the purpose of the execution of a particular piece of work; or
- (c) for any other purpose of limited duration,

a licence of any class may be granted for a period of less than one year, but not exceeding three months, and any licence granted under this or the next following sub-section is in this Ordinance referred to as a short-term licence.

(3) If on the date of the expiration of a goods vehicle licence, other than a short-term licence, proceedings are pending before the Licensing Authority on an application by the holder of that licence for the grant to him of a new licence, the existing licence shall continue in force until the application is disposed of, without prejudice, however, to the exercise in the meantime of the powers of suspension and revocation conferred by this Ordinance.

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(7) A motor vehicle which is acquired by, or under a hire purchase agreement comes into the possession of, the holder of a C licence after the grant thereof shall cease to be an authorized vehicle on the expiration of one month from the date on which it was acquired by him or came into his possession, unless before the expiration of that period the holder delivers to the Licensing Authority a notice in the prescribed form of the vehicle having been acquired by him or having come into his possession.

(8) A motor vehicle specified in the licence shall not, while it remains so specified, be capable of being effectively specified in any other licence.

(9) A person may be the holder of two or more licences whether of the same class or of different classes.

6. (1) ~~Every licence shall, unless previously revoked, continue in force for one year from the date on which it is expressed to take effect.~~ Provided that if on the date of the expiration of a licence proceedings are pending before the Licensing Authority on an application for the grant of a new licence in substitution for an existing licence held by the applicant, the existing licence shall continue in force until such application is disposed of.

(2) With a view to enabling goods vehicles, passenger-carrying vehicles or any ship to be used temporarily—

- (a) for the purpose of a seasonal business;
- (b) for the purpose of the execution of a particular piece of work; or
- (c) for any other purpose of limited duration,

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7. No licence of any class shall be transferable except with the written consent of the Licensing Authority, and in the case of an exclusive licence, with the written consent of the Governor in Council, endorsed on such licence.

Licence not transferable.

8. (1) It is hereby declared that nothing in this Ordinance is to be treated as conferring on the holder of a licence of any class any right to the continuance of any benefits arising from the provisions of this Ordinance, or from a licence, or from any conditions attached to a licence.

Protection of public interest

(2) The grant of a licence of any class under this Ordinance shall not relieve the holder from complying with the provisions of any law in force in respect to motor vehicles or ships.

9. (1) Notwithstanding any other provisions of this Ordinance, the Licensing Authority may, with the approval of the Governor in Council, and subject to such conditions as it may think fit to impose, grant to any person an exclusive licence authorizing such person to operate vehicles or ships, as the case may be, for the carriage of passengers or goods in such areas, over such routes or between such places and for such period as the Licensing Authority may decide, and the provisions of this Ordinance regarding applications for and objections to the grant of a licence shall apply to the applications for and grant of any exclusive licence as herein mentioned.

Exclusive licences

PART III

PROCEDURE ON APPLICATION FOR LICENCES

A—GOODS VEHICLES LICENCES

10. (1) In the case of goods vehicles, a person applying for a licence shall submit to the Licensing Authority a statement in the prescribed form—

Procedure on application for goods vehicles licences.

- (a) containing, as respects motor vehicles proposed to be used under the licence which belong to the applicant or are in his possession under a hire purchase agreement or which if the application is granted he intends to acquire or obtain possession of under such an agreement, such particulars as may be prescribed;
- (b) stating the number and type of hired motor vehicles and of trailers proposed to be so used; and

(c) specifying, in the case of an application for an A licence or a B licence, the facilities for the transport of goods intended to be provided by him under the licence for other persons, including particulars of the district within which, or the places between which, it is intended that the authorized vehicles will normally be used for the purpose of carrying goods for hire or reward, and the rates proposed to be charged therefor.

(2) A separate application shall be made in respect of each permanent base or centre from which it is intended that the authorized vehicles will normally be used:

Provided that where applications are made by a person for an A or B licence in respect of two or more bases or centres the Licensing Authority may, if it thinks fit, grant a single licence in respect of those applications or any of them.

11. (1) Subject to the provisions of the next succeeding section, the Licensing Authority—

(a) on an application for an A licence or for a B licence, shall have full power in its discretion either to grant or to refuse the application, or to grant a licence subject to such conditions as it may impose or to grant a licence in respect of motor vehicles other than those of which particulars were contained in the application, or in respect of motor vehicles or trailers less in number than, or differing in type from, those for the use of which authorization was applied for; and

(b) on an application for a C licence, shall grant the application, subject to such conditions as may be necessary in the public interest, unless the applicant is the holder of a licence which is suspended, or unless a licence previously held by him has been revoked, in either of which cases the Licensing Authority shall have full power in its discretion either to grant or to refuse the application.

(2) The Licensing Authority in exercising its discretion shall have regard primarily to the public interest, including the interest or interests of persons requiring, as well as those of persons providing, facilities for transport, and, in particular,

Discretion of
Licensing
Authority to
grant or
refuse goods
vehicle licences

shall have regard in the case of an application for an A licence or for a B licence—

(a) where the applicant is the holder of an existing licence of the same class, to the extent to which he is authorized to use goods vehicles thereunder for the carriage of goods for hire or reward;

(b) to the previous conduct of the applicant in the capacity of a carrier of goods;

(c) to the number and type of vehicles proposed to be used under the licence;

(d) in determining the number of vehicles to be authorized, to the need for providing for occasions when vehicles are withdrawn from service for overhaul or repair.

and, in the case of an application for a B licence, also to the extent to which the applicant intends that the vehicles proposed to be used under the licence shall be used for the carriage of goods for hire or reward.

12. (1) If, on an application for an A or B licence or an inland water transport licence, made not later than such date as the Governor in Council may by notice in the Gazette appoint, the applicant shows to the satisfaction of the Licensing Authority that, during the twelve months immediately preceding such date, he carried on either wholly or mainly the business of a carrier of goods for hire or reward, the Licensing Authority shall, unless it is satisfied that, having regard to the previous character of the applicant as a carrier of goods, he is not a fit person to receive a licence, grant to the applicant a licence of the class applicable to the business carried on by him in respect of the vehicles or ships, as the case may be, regularly employed by him during the said twelve months in such business: Protection of
existing
interests.

Provided that the Licensing Authority may if it thinks fit permit the applicant to substitute for the said vehicles, or ships, as the case may be, employed by him as aforesaid, vehicles or ships of a similar type or, in the case of an application for an A or B licence, vehicles of an aggregate weight unladen not greater than the aggregate weight unladen of the said vehicles.

(2) Any licence granted pursuant to the provisions of this section shall be subject to the provisions of section 17 of this Ordinance.

(3) The provisions of this section shall apply only to an application for a licence in respect of the first year of the operation of this Ordinance and thereafter the provisions of section 11 of this Ordinance shall apply.

B—ROAD SERVICE LICENCES

Procedure on application for a road service licence.

13. (1) In the case of passenger-carrying vehicles, every person applying for a road service licence shall submit to the Licensing Authority—

- (a) particulars of the type or types of vehicles to be used; and
- (b) in the case of regular services, the time-tables and fare-tables of the services which it is proposed to provide under the licence; and
- (c) in any other case, such particulars as to the frequency of the services and the times expected to be taken on the journeys included in those services as the Licensing Authority may require.

(2) If the licence is required in respect of a public service vehicle, the applicant shall also furnish the particulars required, in the case of an application for an "A" or "B" licence, under paragraph (c) of sub-section (1) of section 10 of this Ordinance.

likely to be contravened, and in exercising its discretion to grant or refuse a road service licence in respect of any routes and its discretion to attach conditions to any such licence shall have regard to the following matters—

- (a) the suitability of the routes on which a service may be provided under the licence;
- (b) the extent, if any, to which the needs of the proposed routes or any of them are already adequately served;
- (c) the extent to which the proposed service is necessary or desirable in the public interest;
- (d) the needs of the areas through which the proposed routes or any of them pass as a whole in relation to traffic (including the provision of adequate, suitable and efficient services, the elimination of unnecessary services and the provision of unremunerative services) and the co-ordination of all forms of passenger transport, including transport by rail.

and take into consideration any representations or objections which may be made in the prescribed manner by persons who are already providing transport facilities along or near to the routes or any part thereof or by any local authority in whose areas any of the routes is situate.

(2) In any case in which the licensing authority refuses to grant a licence, or grants a licence which differs from the licence applied for, or attaches conditions to which the applicant does not agree, the Licensing Authority shall, if requested by the applicant, state in writing the reasons for its decision.*

C—INLAND WATER TRANSPORT LICENCES

15. (1) In the case of a ship every person applying for a licence for the carriage of passengers and/or goods shall submit to the Licensing Authority—

Procedure on application for inland water transport licence.

- (a) particulars of the type or types of ships to be used;
- (b) particulars of the construction of such ship;
- (c) the total number of crew to be carried in such ship;
- (d) the number of passengers such ship is intended to carry;
- (e) the places between which such ship is intended to be navigated, and the services to be provided thereby.

(2) The Licensing Authority, on an application for an inland water transport licence, shall have full power in its discretion either to grant or refuse the application, but in exercising its discretion shall have regard primarily to the public interest, to the extent to which the existing transport services serve the routes proposed to be served in the application and to the fares and rates proposed to be charged:

Discretion of Licensing Authority to grant or refuse inland water transport licence.

Provided that, where such application is for a licence to carry passengers and/or goods over any route which includes a portion of the inland waters of either the Uganda Protectorate or the Tanganyika Territory, or both of these territories, before adjudicating upon such application the Licensing Authority shall take such steps as may appear to it to be necessary to ascertain the views upon such application of any Licensing Authority appointed in either or both of those territories.

D—GENERAL

16. A person applying for a licence under the provisions of this Part shall, in addition to the particulars which he is required under the provisions of this Part to furnish with his application, give to the Licensing Authority any information which it may reasonably require for the discharging of its duties in relation to the application and in particular shall, if required by the Licensing Authority, submit to the Licensing Authority such particulars as the Licensing Authority may require with respect to any business as a carrier of passengers or goods for hire or reward carried on by the applicant at any time before the making of the application and of the rates charged or proposed to be charged by the applicant and of the wages and conditions and hours of employment of persons employed in connexion with the vehicles or ships proposed to be used under the licence:

Power to call for further particulars.

B—ROAD SERVICE LICENCES

Procedure on application for a road service licence

13. (1) In the case of passenger-carrying vehicles, every person applying for a road service licence shall submit to the Licensing Authority—

- (a) particulars of the type or types of vehicles to be used; and
- (b) in the case of regular services, the time-tables and fare-tables of the services which it is proposed to provide under the licence; and
- (c) in any other case, such particulars as to the frequency of the services and the times expected to be taken on the journeys included in those services as the Licensing Authority may require.

Discretion of Licensing Authority to grant or refuse a road service licence. No. 26 of 1928.

14. (1) On an application for a road service licence, the Licensing Authority shall not grant such licence if it appears to it from the particulars furnished in pursuance of section 13 of the Ordinance that the provisions of the Traffic Ordinance, 1928, relating to the speed of motor vehicles are likely to be contravened, and in exercising its discretion to grant or refuse a road service licence in respect of any routes and its discretion to attach conditions to any such licence shall have regard to the following matters—

- (a) the suitability of the routes on which a service may be provided under the licence;
- (b) the extent, if any, to which the needs of the proposed routes or any of them are already adequately served;
- (c) the extent to which the proposed service is necessary or desirable in the public interest;
- (d) the needs of the areas through which the proposed routes or any of them pass as a whole in relation to traffic (including the provision of adequate, suitable and efficient services, the elimination of unnecessary services and the provision of unremunerative services) and the co-ordination of all forms of passenger transport, including transport by rail,

and take into consideration any representations or objections which may be made in the prescribed manner by persons who are already providing transport facilities along or near to the routes or any part thereof or by any local authority in whose areas any of the routes is situate.

(2) In any case in which the Licensing Authority refuses to grant a licence, or grants a licence which differs from the licence applied for, or attaches conditions to which the applicant does not agree, the Licensing Authority shall, if requested by the applicant, state in writing the reasons for its decision.*

C—INLAND WATER TRANSPORT LICENCES

15. (1) In the case of a ship every person applying for a licence for the carriage of passengers and/or goods shall submit to the Licensing Authority—

Procedure on application for inland water transport licence.

- (a) particulars of the type or types of ships to be used;
- (b) particulars of the construction of such ship;
- (c) the total number of crew to be carried in such ship;
- (d) the number of passengers such ship is intended to carry;
- (e) the places between which such ship is intended to be navigated, and the services to be provided thereby.

(2) The Licensing Authority, on an application for an inland water transport licence, shall have full power in its discretion either to grant or refuse the application, but in exercising its discretion shall have regard primarily to the public interest, to the extent to which the existing transport services serve the routes proposed to be served in the application and to the fares and rates proposed to be charged;

Discretion of Licensing Authority to grant or refuse inland water transport licence.

Provided that, where such application is for a licence to carry passengers and/or goods over any route which includes a portion of the inland waters of either the Uganda Protectorate or the Tanganyika Territory, or both of these territories, before adjudicating upon such application the Licensing Authority shall take such steps as may appear to it to be necessary to ascertain the views upon such application of any Licensing Authority appointed in either or both of those territories.

D—GENERAL

16. A person applying for a licence under the provisions of this Part shall, in addition to the particulars which he is required under the provisions of this Part to furnish with his application, give to the Licensing Authority any information which it may reasonably require for the discharging of its duties in relation to the application and in particular shall, if required by the Licensing Authority, submit to the Licensing Authority such particulars as the Licensing Authority may require with respect to any business as a carrier of passengers or goods for hire or reward carried on by the applicant at any time before the making of the application and of the rates charged or proposed to be charged by the applicant and of the wages and conditions and hours of employment of persons employed in connexion with the vehicles or ships proposed to be used under the licence:

Power to call for further particulars.

PART IV

CONDITIONS, VARIATION, REVOCATION AND SUSPENSION OF LICENCES. PENALTY FOR NON-COMPLIANCE WITH CONDITIONS OF LICENCES AND OBJECTIONS TO APPLICATIONS AND APPEALS IN CONNEXION WITH LICENCES.

Conditions of
licences.

17. (1) It shall be a condition of every goods vehicle or road service licence—

- (a) that any authorized vehicles are maintained in a fit and serviceable condition;
- (b) that the provisions of any law for the time being in force relating to limits of speed and weight, laden and unladen, the loading of goods vehicles, and the number of passengers to be carried, are complied with in relation to the authorized vehicles;
- (c) that the provisions of this Ordinance and of the Regulations relating to the keeping of records shall be complied with.

(2) The Licensing Authority may attach to a licence of any class all or any of the following conditions—

- (a) a condition that the authorized vehicles or ships shall or shall not be used in a specified area or over specified routes;
- (b) a condition that certain classes or descriptions of goods shall or shall not be carried;
- (c) a condition specifying the charges or the maximum or minimum charges to be made for the carriage of goods;
- (d) conditions as to the wages, conditions and hours of employment of persons employed in connexion with the authorized vehicles or ships;
- (e) such other conditions as may be prescribed in the public interest or with a view to preventing un-economic competition.

and in addition to the above in the case of goods vehicle or road service licences—

- (f) a condition specifying the maximum laden weights of any authorized vehicle;

(g) a condition specifying the number and type of vehicles and trailers to be used,

and in addition to the above in the case of B licences—

~~(h) a condition that goods shall be carried only for specified persons.~~

(3) Subject to the provisions of section 14 of the Ordinance and to the Regulations, the Licensing Authority may attach to a road service licence such conditions as it may think fit with regard to the matters to which it is required to have regard under ~~the preceding sub-section~~, and in particular for securing that—

- (a) the fares shall not be unreasonable;
- (b) where desirable in the public interest the fares shall be so fixed as to prevent wasteful competition with alternative forms of transport, if any, along the routes or any part thereof, or in proximity thereto;
- (c) copies of the time-table and fare-table shall be carried and be available for inspection in vehicles used on the service;
- (d) passengers shall not be taken up or shall not be set down except at specified points or shall not be set down between specified points,

and generally for securing the safety and convenience of the public; and the Licensing Authority may from time to time vary in such manner as it thinks fit the conditions attached to a road service licence.

(4) The Licensing Authority may in its discretion attach to an A or B licence as respects the user of the authorized vehicle, or any of them for the carriage of goods for hire or reward all or any of the following conditions, that is to say—

- (a) a condition that certain classes or descriptions of goods only shall be carried;
- (b) a condition that the rates to be charged shall not be lower than such amount for the goods authorized to be carried as the Licensing Authority may consider reasonable;

and in the case of a B licence the Licensing Authority may attach, in addition to the foregoing—

- (c) a condition that they shall be so used only in a specified district or between specified places;
- (d) a condition that goods shall be so carried only for specified persons;

(e) such other conditions as the Licensing Authority may think fit to impose in the public interest.

(5) The Licensing Authority may, from time to time, cancel or vary any of the conditions attached to a licence under the provisions of this Ordinance.

Variation of
goods vehicle
licences.

18. (1) On the application of the holder of a goods vehicle licence of any class the Licensing Authority by whom the licence was granted may at any time during its currency vary the licence by directing that additional vehicles shall be specified therein, or that vehicles specified therein shall be removed therefrom, or that the maximum number of motor vehicles or of trailers specified in the licence in pursuance of paragraphs (b) and (c) respectively of sub-section (6) of section 5 of this Ordinance shall be increased or reduced.

(2) The foregoing provisions of this Ordinance as to applications for goods vehicle licences of any class, as to the grant or refusal of licences of any class (except the provisions of section 12), and as to the attaching of conditions to goods vehicle licences, shall apply in relation to the variation of any such licence: Provided that the Licensing Authority shall be bound to grant an application for a variation consisting only of the removal of a specified vehicle from the licence, or of a reduction in the maximum number specified as aforesaid, or of the specification in the licence in substitution for a specified vehicle of a vehicle of the same or of a less weight unladen.

(3) Where it comes to the knowledge of the Licensing Authority that a vehicle specified in a licence has ceased to be used under the licence for any reason other than a fluctuation in business, or is specified in another licence, it may vary the licence by directing that the vehicle shall be removed therefrom.

(4) When a Licensing Authority by whom a C licence was granted receives notice under sub-section (7) of section 5 of this Ordinance that the holder of the licence has acquired, or come into possession of, a vehicle as therein mentioned, it shall vary the licence by directing that the vehicle shall be specified therein.

Power to revoke
or suspend
licences.

19. (1) A licence of any class may be revoked or suspended by the Licensing Authority on the ground that any of the conditions of the licence have not been complied with.

(2) In any case where a licence is revoked or suspended the Licensing Authority shall, if requested by the licence-holder, state in writing under the hand of the chairman the grounds for the revocation or suspension.

(3) The Licensing Authority may, in lieu of revoking or suspending a goods vehicle licence, direct that any one or more of the vehicles specified therein shall be removed therefrom, or that the maximum number of motor vehicles or of trailers specified in the licence in pursuance of paragraphs (b) and (c) respectively of sub-section (6) of section 5 of this Ordinance shall be reduced, and references in this or any other section of this Ordinance to the revocation or suspension of a licence shall be construed as including a reference to the giving of a direction under this sub-section.

20. (1) Subject to the provisions of this section, any person who fails to comply with any condition of a licence of any class held by him shall be guilty of an offence against this Ordinance.

Penalty for non-compliance with conditions and exceptions from conditions of licences.

(2) In the case of a goods vehicle licence, and notwithstanding that a vehicle is an authorized vehicle, the conditions of the licence shall not apply while the vehicle is being used for any purpose for which it might lawfully be used without the authority of a licence.

21. (1) The Licensing Authority shall, subject as in this section hereinafter contained, publish in the prescribed manner notice of an application for a goods vehicle or road service licence specifying the time within which and the manner in which objections may be made to the grant of the application.

Objections to certain applications or variations of goods vehicle or road service licences.

(2) It shall be the duty of the Licensing Authority, on an application to which this section applies, to take into consideration any objections to the application which any local authority in whose area the routes intended to be served

are situated, or byengers for hire or reward in the district, or between those places, are or, if the application were granted, would be, either generally or in respect of any particular type of vehicles, in excess of requirements, or contrary to public interest, or on the ground that any of the conditions of a licence held by the applicant have not been

complied with: Provided that, on an application for the grant or variation of an A licence, the Licensing Authority shall not be bound to take into consideration objections made by a person who holds a B licence and does not hold an A licence.

(3) This section shall apply to every application for the grant for one year of an A licence or of a B licence, or for the variation of such a licence by a direction that additional vehicles shall be specified therein or that the maximum number of motor vehicles or of trailers specified in the licence in pursuance of paragraphs (b) and (c) respectively of sub-section (6) of section 5 of this Ordinance shall be increased, or, in the case of a B licence, that the district specified in the licence within which, or the places so specified between which, the vehicles can be used for the carriage of goods for hire or reward shall be varied or extended, not being—

- (a) an application which the Licensing Authority is bound to grant; or
 - (b) an application for a licence to expire not later than an existing licence under which the vehicles to which the application relates are authorized to be used for the purposes of a business which the applicant has acquired or intends to acquire; or
 - (c) an application as respects which the Licensing Authority is of opinion that, having regard to its trivial character, it is not necessary that any opportunity should be given for objection.
- (4) This section shall apply to every application under sub-section (2) of section 6 of this Ordinance for a short-term licence unless the Licensing Authority is of opinion either—
- (a) that, having regard to the trivial nature of the application, it is not necessary that any opportunity should be given for objection; or
 - (b) that the application has been made with reasonable expedition and that the demand for the use of the vehicles to be authorized under the licence is so urgent as to render compliance with the requirements of this section impracticable.

(5) The Licensing Authority may hold such inquiries as it thinks necessary for the proper exercise of its functions

under this Ordinance, including inquiries into the applicant's reliability, financial stability, and the facilities at his disposal for carrying out mechanical repairs.

(6) Where, on an application for the grant of an A licence or a B licence, the Licensing Authority proposes to grant the application in respect of vehicles other than those of which particulars were contained in the application, it shall publish notice of its proposal as if that proposal were an application to which this section applies, and thereupon the provisions of this section with respect to the making and consideration of objections shall apply accordingly:

Provided that it shall not be necessary for the Licensing Authority to publish such a notice if it is satisfied that the variation, subject to which it proposes to grant the application, will not materially increase the total carrying capacity of the authorized vehicles.

22. (1) The Licensing Authority shall, in the case of an application for an inland water transport licence, publish in the prescribed manner notice of such application specifying the time within which, and the manner in which, objections may be made to the grant of the licence.

Objections to applications for inland water transport licence.

(2) On any such application, the Licensing Authority shall take into consideration any objections to the application which may be made by persons who are already providing transport facilities for the carriage of goods or passengers for hire or reward between the same places which the applicant intends to serve.

23. (1) Any person who—

- (a) being an applicant for the grant or variation of a licence, is aggrieved by the decision of the Licensing Authority on the application; or
- (b) having duly made an objection to any such application as aforesaid, being an objection which the Licensing Authority is bound to take into consideration, is aggrieved by the decision of the Licensing Authority thereon; or
- (c) being the holder of a licence, is aggrieved by the revocation or suspension thereof,

Provision for appeals in connexion with licences.

may within the prescribed time and in the prescribed manner appeal to the Supreme Court.

(2) The case shall be heard by a judge of the Supreme Court to be assigned by the Chief Justice for the purpose.

(3) In hearing any such appeal such judge shall have all the powers which may be exercised by a judge in the hearing of an ordinary civil suit, and may permit any party to appear before him either personally or by advocate.

PART V

OFFENCES AND PROSECUTIONS

24. (1) If, with intent to deceive, any person—

(a) forges within the meaning of Chapter XXXIV of the Penal Code, or alters or uses or lends to or allows to be used by any other person a licence, or any document, plate or mark by which the subject of the licence is to be identified as being licensed under this Ordinance; or

(b) makes or has in his possession any document, plate or mark so closely resembling a licence, or any such document, plate or mark as aforesaid, as to be calculated to deceive; or

(c) alters an entry in a record under section 29 of this Ordinance,

he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

(2) If any person, for the purpose of obtaining the grant of a licence to himself or any other person, or the variation of a licence, or for the purpose of preventing the grant or variation of any licence or of procuring the importation of any condition or limitation in relation to a licence, knowingly makes any false statement, he shall be guilty of an offence under this Ordinance and be liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(3) If a police officer has reasonable cause to believe that a document carried on a motor vehicle or ship or by the driver or master thereof is a document in relation to which an offence under this section has been committed, he may seize the document and, when any document is seized under this section, either the driver, master or the owner

Forgery, etc.
of licences.

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of the vehicle or ship shall, if the document is still detained and none of them has previously been charged with an offence under this section, be summoned before a magistrate of the first or second class to account for his possession of the said document, and the magistrate shall make such order respecting the disposal of the said document and award such costs as the justice of the case may require.

For the purpose of this subsection the expression "document" shall include a plate, and the power to seize shall include power to detach from the vehicle or ship.

25. (1) A person guilty of an offence under this Ordinance, for which no special penalty is provided shall be liable, in the case of a first offence, to a fine not exceeding twenty pounds, and in the case of a second and subsequent conviction to a fine not exceeding fifty pounds.

(2) If any person acts in contravention of, or fails to comply with, the Regulations, and contravention of or failure to comply with the Regulations is not made an offence under any other provision of this Ordinance, he shall, for each offence, be liable on conviction before a magistrate of the first or second class to such maximum penalty, not exceeding a fine of twenty pounds, as may be prescribed by the Regulations.

Prosecutions and penalties for offences.

PART VI

MISCELLANEOUS PROVISIONS

26. All fees payable under this Ordinance and all fines imposed in respect of offences under this Ordinance or the Regulations shall be paid into the general revenue of the Colony.

Financial provisions

27. Such fees, payable at such times and in such manner as the Governor in Council may prescribe, shall be charged by the Licensing Authority in respect of the grant or variation of licences.

Fees in respect of licences.

28. (1) The Governor in Council may make Regulations for any purpose for which Regulations may be made under this Ordinance and for prescribing anything which may be prescribed under this Ordinance and generally for the purpose of carrying this Ordinance into effect, and, in particular, but without prejudice to the generality of the foregoing provisions, may make Regulations with respect to any of the following matters—

General power of making Regulations.

(a) the forms to be used and the particulars to be furnished for any of the purposes of this Ordinance;

(2) The case shall be heard by a judge of the Supreme Court to be assigned by the Chief Justice for the purpose.

(3) In hearing any such appeal such judge shall have all the powers which may be exercised by a judge in the hearing of an ordinary civil suit, and may permit any party to appear before him either personally or by advocate.

PART V

OFFENCES AND PROSECUTIONS

24. (1) If, with intent to deceive, any person—
- forges within the meaning of Chapter XXXIV of the Penal Code, or alters or uses or lends to or allows to be used by any other person a licence, or any document, plate or mark by which the subject of the licence is to be identified as being licensed under this Ordinance; or
 - makes or has in his possession any document, plate or mark so closely resembling a licence, or any such document, plate or mark as aforesaid; as to be calculated to deceive; or
 - alters an entry in a record under section 29 of this Ordinance,

he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

(2) If any person, for the purpose of obtaining the grant of a licence to himself or any other person, or the variation of a licence, or for the purpose of preventing the grant or variation of any licence or of procuring the importation of any condition or limitation in relation to a licence, knowingly makes any false statement, he shall be guilty of an offence under this Ordinance and be liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(3) If a police officer has reasonable cause to believe that a document carried on a motor vehicle or ship or by the driver or master thereof is a document in relation to which an offence under this section has been committed, he may seize the document and, when any document is seized under this section, either the driver, master or the owner

Forgery, etc.,
of licences.

No. 10 of 1930.

of the vehicle or ship shall, if the document is still detained and none of them has previously been charged with an offence under this section, be summoned before a magistrate of the first or second class to account for his possession of the said document, and the magistrate shall make such order respecting the disposal of the said document and award such costs as the justice of the case may require.

For the purpose of this subsection the expression "document" shall include a plate, and the power to seize shall include power to detach from the vehicle or ship.

25. (1) A person guilty of an offence under this Ordinance for which no special penalty is provided shall be liable in the case of a first offence, to a fine not exceeding twenty pounds, and in the case of a second and subsequent conviction to a fine not exceeding fifty pounds.

(2) If any person acts in contravention of, or fails to comply with, the Regulations, and contravention of or failure to comply with the Regulations is not made an offence under any other provision of this Ordinance, he shall, for each offence, be liable on conviction before a magistrate of the first or second class to such maximum penalty, not exceeding a fine of twenty pounds, as may be prescribed by the Regulations.

Prosecutions and
penalties for
offences.

PART VI

MISCELLANEOUS PROVISIONS

26. All fees payable under this Ordinance and all fines imposed in respect of offences under this Ordinance or the Regulations shall be paid into the general revenue of the Colony.

27. Such fees, payable at such times and in such manner as the Governor in Council may prescribe, shall be charged by the Licensing Authority in respect of the grant or variation of licences.

28. (1) The Governor in Council may make Regulations for any purpose for which Regulations may be made under this Ordinance and for prescribing anything which may be prescribed under this Ordinance and generally for the purpose of carrying this Ordinance into effect, and, in particular, but without prejudice to the generality of the foregoing provisions, may make Regulations with respect to any of the following matters—

- the forms to be used and the particulars to be furnished for any of the purposes of this Ordinance;

Financial
provisions

Fees in
respect of
licences.

General power
of making
Regulations.

- (b) the procedure on applications for, and the determination of questions in connexion with, the grant, variation, suspension and revocation of licences;
- (c) the issue of licences, and the issue of copies of licences in the case of licences lost or destroyed;
- (d) the means by which vehicles or ships are to be identified, whether by plates, marks or otherwise, as being authorized for use under this Ordinance;
- (e) the custody of licences, the production, return and cancellation of licences on expiration, suspension or revocation, and the custody, production and return of documents and plates; and
- (f) the notification to the Licensing Authority of vehicles or ships which have ceased to be used under a licence;

and in the case of vehicles different Regulations may be made as respects different classes or descriptions thereof and as respects the same class or description of vehicles in different circumstances.

"(2) All regulations made under this section shall have the same force and effect as if they had been enacted in this Ordinance and shall be laid as soon as conveniently may be before the Legislative Council; and if a resolution is passed within forty days of their being so laid before the Legislative Council praying that any such regulation shall be revoked or amended, such regulation shall thenceforth be deemed to be revoked or amended, but without prejudice to anything done thereunder."

master.

- (b) as respects every journey of a vehicle or ship on which goods are carried under the licence, particulars of the journey, of the rates charged and of the greatest weight of goods carried by the vehicle or ship at any time during the period to which the record relates and the description and destination of the goods carried.

and the Regulations may make provision for requiring drivers of authorized vehicles and masters of ships, to carry the prescribed documents and to make any prescribed entries therein.

(2) Subject to the provisions of the Regulations, the Licensing Authority may dispense with the observance, as

"Power to stop and inspect vehicles.

30. (1) Any police officer, or any other person duly authorised in writing by the Licensing Authority, may stop any vehicle or ship and or inspect any vehicle or ship with a view to ascertaining whether or not the provisions of this Ordinance or of any Regulations made thereunder are being complied with, and may demand for inspection the production of any licence, certificate, document or record of any description whatsoever which may, under the provisions of this Ordinance or of any Regulations made thereunder, be required to be carried on such vehicle or ship, and may require the driver or any other person travelling on such vehicle or ship to give such information as such police officer or such authorised person may reasonably request in order to ascertain whether or not the provisions of this Ordinance or Regulations are being complied with. 152

(2) Any person who obstructs any police officer or duly authorised person in the exercise of the powers conferred on such police officer or such authorised person by this section, or fails to comply with any lawful order given by such police officer or such authorised person or refuses to give any information when requested so to do by such police officer or such authorised person shall be guilty of an offence under this Ordinance."

"Arrest.

31. Any police officer, of or above the rank of assistant sub-inspector, having reasonable grounds for believing that any person has committed an offence against this Ordinance and that such person will not attend the court in answer to any process which may be issued against him, may arrest such person without a warrant."

- (b) the procedure on applications for, and the determination of questions in connexion with, the grant, variation, suspension and revocation of licences;
 - (c) the issue of licences, and the issue of copies of licences in the case of licences lost or destroyed;
 - (d) the means by which vehicles or ships are to be identified, whether by plates, marks or otherwise, as being authorized for use under this Ordinance;
 - (e) the custody of licences, the production, return and cancellation of licences on expiration, suspension or revocation, and the custody, production and return of documents and plates; and
 - (f) the notification to the Licensing Authority of vehicles or ships which have ceased to be used under a licence.
- and in the case of vehicles different Regulations may be made as respects different classes or descriptions thereof and as respects the same class or description of vehicles in different circumstances.

Records as to
"shall, if
cases, etc.

28. (1) Subject to the provisions of the Regulations, the Licensing Authority, shall, if required by the Licensing Authority, keep records in accordance with the Regulations, current records showing—

- (a) as respects every person employed by him as a driver or statutory attendant of an authorized vehicle, or master of a ship, the times at which that person commenced and ceased work and particulars of his intervals of rest and the like information as respects himself when acting as such a driver or attendant or master;
- (b) as respects every journey of a vehicle or ship on which goods are carried under the licence, particulars of the journey, of the rates charged and of the greatest weight of goods carried by the vehicle or ship at any time during the period to which the record relates and the description and destination of the goods carried.

and the Regulations may make provision for requiring drivers of authorized vehicles and masters of ships, to carry the prescribed documents and to make any prescribed entries therein.

(2) Subject to the provisions of the Regulations, the Licensing Authority may dispense with the observance, as

"Power to
stop and
inspect
vehicles.

30. (1) Any police officer, or any other person duly authorised in writing by the Licensing Authority, may stop any vehicle or ship and or inspect any vehicle or ship with a view to ascertaining whether or not the provisions of this Ordinance or of any Regulations made thereunder are being complied with, and may demand for inspection the production of any licence, certificate, document or record of any description whatsoever which may, under the provisions of this Ordinance or of any Regulations made thereunder, be required to be carried on such vehicle or ship, and may require the driver or any other person travelling on such vehicle or ship, to give such information as such police officer or such authorised person may reasonably request in order to ascertain whether or not the provisions of this Ordinance or Regulations are being complied with. 152

(2) Any person who obstructs any police officer or duly authorised person in the exercise of the powers conferred on such police officer or such authorised person by this section, or fails to comply with any lawful order given by such police officer or such authorised person or refuses to give any information when requested so to do by such police officer or such authorised person shall be guilty of an offence under this Ordinance."

"Arrest.

31. Any police officer, of or above the rank of assistant sub-inspector, having reasonable grounds for believing that any person has committed an offence against this Ordinance and that such person will not attend the court in answer to any process which may be issued against him, may arrest such person without a warrant."

respects the carriage of goods under a licence granted by it, of any requirements of the Regulations, and may grant such dispensation either generally or as respects any particular vehicle or ship or as respects the use of vehicles or ships for any particular purpose.

(3) The holder of a licence shall preserve every record kept under the Regulations for a period of six months, commencing on the date on which the record is made, and for such further period, not exceeding six months, as may be required by the Licensing Authority or a police officer not below the rank of superintendent, and during the period for which he is required by or under this subsection to preserve a record shall, if required so to do at any time by the Licensing Authority or by any person authorized in that behalf by the Licensing Authority or by any person authorized in that behalf by a police officer not below the rank of superintendent, produce the record for the inspection of the Licensing Authority or of the person so authorized.

(4) If any person fails to comply with the provisions of this section or of the Regulations, he shall be guilty of an offence under this Ordinance.

30. All offences under this Ordinance shall be cognizable to the police. Offences to be cognizable to the police.

OBJECTS AND REASONS

This Bill is a redraft of the Bill published for criticism on the 31st August, 1937.

The Bill, as now drafted, differs, *inter alia*, from the one already published, in the following respects:—

- (a) The control of aircraft has been deleted from the Bill as this form of transport is already dealt with under the Colonial Air Navigation (Application of Acts) Order in Council, 1937, in force in the Colony.
 - (b) Provision is made (clause 9) for exclusive road and inland water licences to be granted by the Transport Licensing Board, with the approval of the Governor in Council.
 - (c) Inter-territorial consultation regarding inland water transport is provided for in clause 15 (2).
 - (d) The Transport Licensing Board is empowered to attach conditions to a "C" licence.
 - (e) The Attorney General is made Chairman of the Board.
- Such expenditure of public funds as will be necessary if this Bill becomes law will be covered by additional revenue.

R E P O R T
O F
THE SELECT COMMITTEE OF THE LEGISLATIVE COUNCIL
APPOINTED TO CONSIDER AND REPORT UPON THE PRO-
VISIONS OF A BILL TO PROVIDE FOR THE CO-ORDI-
NATION AND CONTROL OF MEANS OF AND FACILITIES
FOR TRANSPORT

Your Excellency,

We, the members of the Select Committee of the Legislative Council appointed to consider and report upon the provisions of the above Bill, have the honour to submit our Report.

We met at the Attorney General's Office on the 17th and 24th November, and on the 7th December.

We recommend that the Bill be amended in the following respects -

- 1. That Clause 2 be amended -
 - (a) by substituting the word "person" for the word "persons" which appears in the third line of the definition of "driver";
 - (b) by deleting therefrom the definition of "ship" and substituting therefor the following definition -
 "'ship' includes every description of vessel used in navigation propelled otherwise than by oars or hand paddles and every lighter, barge, or like vessel used in navigation however propelled;"
 - and
 - (c) by deleting therefrom the definition of "public service vehicle" and substituting therefor the following definition -
 "'public service vehicle' means a motor vehicle constructed or adapted for the carriage of both passengers and goods;"

2. That Clause 3 be amended -

(a) by inserting therein the following new sub-clauses as sub-clauses (2) to (6) -

"(2) No person shall be appointed a nominated member of the Licensing Authority -

(a) if he is insolvent or has assigned his estate for the benefit of his creditors or has made an arrangement with his creditors;

(b) if he is of unsound mind or has been convicted of an offence and sentenced to imprisonment therefor without the option of a fine.

(3) A nominated member of the Licensing Authority shall become disqualified to retain, and shall ipso facto cease to hold, his office as such member if he becomes subject to any of the disabilities set out in the last preceding sub-section or if he is absent from four consecutive meetings of the Licensing Authority without the leave of the Licensing Authority.

(4) The Governor in Council may remove, on the ground of incapacity or misbehaviour, any nominated member of the Licensing Authority from his office.

(5) If a nominated member of the Licensing Authority renewed or vacates his office under this section, or dies or resigns before the expiry of his term, or such member was appointed, his place shall be filled by an appointment by the Governor in Council; and any person appointed to fill the place of any such nominated member shall hold office for the remainder of the period for which such nominated member could otherwise have held office.

(6) The nominated members of the Licensing Authority shall hold office for three years, and each such nominated member shall be eligible for re-nomination to the Licensing Authority at the expiration of each such period.

(b) by renumbering old sub-clauses (2) and (3) as sub-clauses (7) and (8) respectively;

(c) by inserting the following new sub-clauses as sub-clauses (9), (10) and (11) -

"(9) Meetings of the Licensing Authority shall be held at such times, on such occasions and at such places as the chairman may determine.

(10) The chairman shall have a deliberative vote and in the case of equality of votes shall also have a casting vote. A decision of the majority of the members present at a meeting of the Licensing Authority shall be deemed to be the decision of the Licensing Authority.

(11) The business of the Licensing Authority shall be conducted in such manner as may be prescribed;

Provided that until such procedure has been prescribed, the Licensing Authority shall conduct its business in such manner as the chairman may determine."

- (d) by renumbering old sub-clauses (4) to (8) inclusive as sub-clauses (12) to (16) respectively;
- (e) by substituting the bracketted number "(7)" for the bracketted number "(2)" which appears in sub-clause (3) thereof;
- (f) by substituting the bracketted numbers "(12)" for the bracketted number "(4)" which appears in sub-clause (5) thereof; and
- (g) by inserting the following new sub-clause as sub-clause (17) -

"(17) No member of the Licensing Authority or any officer thereof shall be personally liable for any act or default done or omitted to be done in good faith in the course of the operations of the Licensing Authority under the provisions of this Ordinance."

3. That Clause 4 be amended -

- (a) by substituting the word "motor" for the word "goods" which appears in the first line of paragraph (a) of sub-clause (1) thereof; and
- (b) by deleting therefrom paragraph (b) of sub-clause (1) thereof, and substituting therefor the following -

"(b) for hire or reward convey any person by means of any motor vehicle designed to carry more than six persons and the driver of such vehicle;"

4. That Clause 5 be amended -

- (a) by deleting therefrom paragraph (b) of sub-clause (1) thereof and substituting therefor the following -
- "(b) For passenger and public service vehicles -
a road service licence.

A road service licence is used in respect of a public service vehicle only authorise the holder to carry for hire or reward both goods and passengers."

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(b) by deleting from sub-clause (2) thereof the words "whether by road transport or any other kind of transport" which appear in the sixth and seventh lines thereof;

(c) by inserting the comma and words ", unless the Licensing Authority, in its discretion, otherwise determines," between the word "but" and the word "it" which appear in the seventh line of sub-clause (2) thereof; and

-4-

(d) by deleting the word "either" which appears in the fourth line of sub-clause (3) thereof, and by substituting the word "and" for the word "or" which appears in the sixth line thereof.

5. That Clause 6 be amended by deleting therefrom the words "Every licence shall, unless previously revoked, continue in force for one year from the date on which it is expressed to take effect" and substituting therefor the following words "Subject to the provisions of sub-section (2) of this section, every licence shall, unless previously revoked, remain in force until the thirty-first day of December in the year in which it is issued".

6. That Clause 9 be renumbered as Clause 9(1) and the following sub-clause be added thereto -

"(2) Where the Licensing Authority intends to grant an exclusive licence under the provisions of sub-section (1) of this section, it shall by notice in the Gazette and in a local newspaper circulating in the area to which the proposed exclusive licence relates, give notice of its intention to grant such licence, and no such licence shall be granted until a period of six months after the date of publication of such notice has elapsed."

7. That the word "vehicle" be inserted between the word "Goods" and the word "Licences" which appear in the heading to Clause 10 thereof.

8. That Clause 12 be amended -

(a) by renumbering Clause 12 as "12(1)"; and

(b) by adding thereto the following new sub-clauses -

"(2) Any licence granted pursuant to the provisions of this section shall be subject to the provisions of section 17 of this Ordinance.

(3) The provisions of this section shall apply only to an application for a licence in respect of the first year of the operation of this Ordinance and thereafter the provisions of section 11 of this Ordinance shall apply."

9. That Clause 13 be amended -

(a) by deleting therefrom the heading thereto, and substituting therefor the following -

"B. ROAD SERVICE LICENCES";

(b) by renumbering the Clause as "13(1)";

(c) by deleting therefrom the words "In the case of passenger-carrying vehicles, every" and substituting therefor the word "Every"; and

(d) by adding thereto the following new sub-clause -

"(2) If the licence is required in respect of a public service vehicle, the applicant shall also furnish the particulars required, in the case of an application for an 'A' or 'B' licence, under paragraph (c) of sub-section (1) of section 10 of this Ordinance."

10. That Clause 14 be renumbered as "14(1)" and the following new sub-clause be added thereto -

"(2) In any case in which the Licensing Authority refuses to grant a licence, or grants a licence which differs from the licence applied for, or attaches conditions to which the applicant does not agree, the Licensing Authority shall, if requested by the applicant, state in writing the reasons for its decision."

11. That Clause 17 be amended -

(a) by inserting the following paragraph in sub-clause (2) thereof -

"(c) a condition specifying the types and sizes of tyres that shall or shall not be used on the authorised vehicles;"

(b) by relettering paragraphs (e), (f) and (g) thereof as (f), (g) and (h) respectively;

(c) by deleting therefrom paragraph (h) thereof and substituting therefor the following -

"(i) a condition that they shall be so used only in a specified district or between specified places;

(j) a condition that goods shall be so carried only for specified persons."

(d) by substituting the words "that section" for the words "the preceding sub-section" which appear in the fifth line of sub-clause (3) thereof;

(e) by deleting therefrom sub-clause (4) thereof; and

(f) by renumbering sub-clause (5) thereof as "(4)".

12. That Clause 21 be amended by inserting the words "any local authority in whose area the routes intended to be served are situate, or by" between the word "by" and the word "persons" which appear in the fourth line of sub-clause (2) thereof.

13. That sub-clause (3) of Clause 24 be deleted.

14. That Clause 28 be renumbered as "28(1)" and that the following be added thereto as sub-clause (2) -

"(2) All regulations made under this section shall have the same force and effect as if they had been enacted in this Ordinance and shall be laid as soon as conveniently may be before the Legislative Council; and if a resolution is passed within forty days of their being so laid before the Legislative Council praying that any such regulation shall be revoked or amended, such regulation shall thenceforth be deemed to be revoked or amended, but without prejudice to anything done thereunder."

15. That Clause 29 be amended by substituting the words "shall, if required by the Licensing Authority, keep" for the words "shall keep" which appear in the second line of sub-clause (1) thereof.

16. That the following new Clause be inserted as Clause 30 -

"Power to stop and inspect vehicles.

30.(1) Any police officer, or any other person duly authorised in writing by the Licensing Authority, may stop any vehicle on ship and or inspect any vehicle or ship with a view to ascertaining whether or not the provisions of this Ordinance or of any Regulations made thereunder are being complied with, and may demand for inspection the production of any licence, certificate, document or record of any description whatsoever which may, under the provisions of this Ordinance or of any Regulations made thereunder, be required to be carried on such vehicle or ship, and may require the driver or any other person travelling on such vehicle or ship to give such information as such police officer or such authorised person may reasonably request in order to ascertain whether or not the provisions of this Ordinance or Regulations are being complied with.

(2) Any person who obstructs any police officer or duly authorised person in the exercise of the powers conferred on such police officer or such authorised person by this section, or fails to comply with any lawful order given by such police officer or such authorised person or refuses to give any information then requested so to do by such police officer or such authorised person shall be guilty of an offence under this Ordinance."

17. That Clause 30 be deleted and the following be substituted therefor -

"Arrest.

31. Any police officer, of or above the rank of assistant sub-inspector, having reasonable grounds for believing that any person has committed an offence against this Ordinance and that such person will not attend the court in answer to any process which may be issued against him, may arrest such person without a warrant."

There are several matters in respect of which we would like to make certain recommendations although they do not involve any amendments to the Bill -

Licences:

With regard to "C" Licences, while we appreciate the necessity for these, we are of the opinion that the fee prescribed should be as small as possible and should not, in any case, exceed \$1.2/50 per vehicle. We make no recommendation with regard to the fee for other licences, but we consider it very desirable that these should, if at all possible, be uniform in the three territories.

Appeals:

With regard to appeals, we do not consider that the Supreme Court is the most suitable Tribunal for deciding such matters as are likely to form the subject of appeals under this Ordinance, nor, having regard to the fact that the Attorney General who is the Chairman of the Board is also a member of Executive Council, are we of the opinion that the appeal should lie to the Governor in Council. The most suitable Appeal Court would, in our opinion, be an independent body of, say, three persons appointed specially for the purpose of hearing appeals from the Licensing Authority. It would, of course, be necessary to legislate for such a body empowering it to make binding and final decisions and to award costs to the successful party.

Although, therefore, we have retained the right of appeal to the Supreme Court in order to maintain uniform practice with Tanganyika and Uganda, we recommend that enquiries be made through the medium of the Governors' Conference with a view to ascertaining whether or not the other Territories would agree to amend their legislation so as to provide for the establishment of Appeal Tribunals on the lines suggested.

Inter Territorial Consultations:

Although specific provision has been made in the Bill with regard to inter-territorial consultations in the case of Inland Water Transport Licences, we consider that in the administration of the Ordinance generally the Licensing Authorities in the three territories should keep in close touch with one another in order that the practice and policy may be kept as uniform as possible.

We have the honour to be,

Your Excellency's obedient servants,

- SD. L. MARRAGIN (CHAIRMAN)
- SD. E. B. HOISING (MEMBER)
- SD. C. H. WALMSLEY (MEMBER)
- SD. S. H. FAZAN (MEMBER)
- SD. F. J. CAVENDISH BENTINCK (MEMBER)
- SD. COLINAY HARVEY (MEMBER)
- SD. ROBERT SHAW (MEMBER)
- SD. G. BURNS (MEMBER)

Nairobi,

14th December, 1937

Under Head XXV, Treasury and Inland Revenue Office, there is an increase of £6,079. This is mainly owing to the expansion of the Inland Revenue Office necessitated by the introduction of Income Tax. During the last three years this office has taken over certain revenue collection work from the Administration, and the Education and Medical Departments. The increase now shown includes a transfer of £3,000 from the Miscellaneous Services Head, of £896 from the Administration and Local Government Heads and of £771 from the Treasury sub-head. The net increase on the Inland Revenue Office sub-head amounts, therefore, to £2,307, including provision for normal increments.

There is a general belief that Government, through the late Treasurer, gave an assurance that the cost of collection of Income Tax would not exceed £3,000. It is true that that was the tentative estimate given by him, but at the time he envisaged the introduction of a "simple" tax on the lines of the Bill published in October, 1936. As hon. members are aware, amendments were subsequently made in the Bill as passed, providing for example for the averaging of losses over 5 years and for the abolition of a personal allowance for non-residents, and this has necessitated additional staff over and above that contemplated by Mr. Walsh, who made it quite clear to the Select Committee that in view of the amendments adopted he could not adhere to this estimate of £3,000.

I have now dealt with the main Heads of what may be termed normal recurrent expenditure, with one exception. I have not yet referred to the increases under the Public Works Heads—in that term I include Public Works Recurrent, Public Works Extraordinary and the Local Government Contributions to Local Authorities votes. To some extent these are elastic votes, since it is easier to adjust expenditure to revenue in matters such as maintenance of roads and the maintenance of buildings than it is in cases where there is a permanently employed personnel, and a large proportion of the expenditure is on account of personal emoluments. Even in expenditure of this nature, however, there is a limit to the reductions which can be made in the interests of economy, and a time comes when expenditure must be increased, otherwise the assets will depreciate beyond recovery and further capital expenditure will be necessary to replace them.

An attempt has been made to augment the funds available for the maintenance of the public buildings of the Colony, many of which are now falling into a state of disrepair. The Colony possesses approximately £2,000,000 worth of buildings, which on a normal computation of depreciation demand an expenditure of approximately £35,000 per annum; the amount provided on this account is £20,500 only. Many of the public buildings at present in use are unsatisfactory, but their early replacement is beyond the means of the Colony. The provision now made is admittedly inadequate but with limited funds it is impossible to carry out two policies at one and the same time. Either any attempt to accumulate a surplus must be abandoned or money must be rationed between services however necessary and desirable expenditure on them may be. One cannot have it both ways.

The roads of the Colony demand annually increased maintenance expenditure in order to meet increased use and increased wear and tear owing to heavier traffic and greater speeds. Partly owing to the fact that it appeared that any substantial expenditure of public moneys on roads would be uneconomic until a full road policy had been evolved, but mainly

many of which are now falling into a state of disrepair. The Colony possesses approximately £2,000,000 worth of buildings, which on a normal computation of depreciation demand an expenditure of approximately £35,000 per annum; the amount provided for this account is £20,500 only. Many of the public buildings at present in use are unsatisfactory, but their early replacement is beyond the means of the Colony. The provision now made is admittedly inadequate but with limited funds it is impossible to carry out two policies at one and the same time. Either any attempt to accumulate a surplus must be abandoned or money must be rationed between services however necessary and desirable expenditure on them may be. One cannot have it both ways.

The roads of the Colony demand annually increased maintenance expenditure in order to meet increased use and increased wear and tear owing to heavier traffic and greater speeds. Partly owing to the fact that it appeared that any substantial expenditure of public moneys on roads would be uneconomic until a full road policy had been evolved, but mainly because funds were not available, the total provision in respect of road maintenance amounts to a modest sum compared with actual needs. However, it has been possible to restore to the Basic Road Grant 50 per cent of the reduction made during the depression years and a proportionately similar increase has been made in the provision allotted to the Public Works Department for expenditure on roads. As hon. members are aware, a sub-committee of the Central Roads and Traffic Board is at present preparing a report on which it is hoped that a comprehensive and long range policy may be framed. When a definite programme has been adopted, it will then be possible to ensure that the money available for expenditure on roads will be expended to the best advantage of the Colony as a whole and not in the somewhat haphazard method followed at present, which has been necessitated by the financial stringency of the last few years.

In conclusion, Sir, I hope that hon. members will regard the details of this Budget and the intention which it reflects as following the middle course between extremes of optimism and pessimism, and I trust that the provision of what may appear a somewhat generous surplus will not lead to demands, either in the course of this debate or during the deliberations of the Standing Finance Committee, unduly to swell the total of expenditure.

MR. STOOKE seconded.

MR. HARRAGIN moved that the debate be adjourned.

MR. WILLAN seconded.

The question was put and carried.

The debate was adjourned.

Council adjourned for the usual interval.

On resuming:

TRANSPORT LICENSING BILL SECOND READING

MR. HARRAGIN: Your Excellency, I beg to move that the Transport Licensing Bill be read a second time.

I suppose there are few subjects that have been more carefully examined in the last few years than the subject this Council is asked to consider now. During the past 10 years it has been investigated in England there have been two separate committees sitting on it at different times, the last being the Salter Committee, the result of which was the Transport Act, 1933, of which this Bill to-day is to a great extent a copy.

consider.

There are two main principles which run through this Bill. One is the fact that the committee or board which will have to administer the Bill is to be guided almost entirely by what is called "public interest." The second is that this is an endeavour to control lorries or buses or ships which ply for hire. It is not the intention of the Bill to interfere with individual rights of owners except when they are plying for hire and reward. I know perfectly well you will find, principally for statistical purposes, in various clauses of the Bill people not exactly plying for hire who will have to send in returns and take out a certain small licence, but there is no intention of restricting the number of private owners.

With regard to the action taken elsewhere on the various reports I have mentioned, I may say that Tanganyika has already passed a Bill on similar lines to this, and that Bill will be available for the inspection of the select committee when it is appointed; and Uganda have started on a similar type of legislation.

Dealing with the Bill itself, the first item of interest is the fact that this Bill will only come into operation on a date to be fixed by proclamation, which will be only when the machinery is ready to work. Another important point is that it will be brought in only for those parts of the Colony which the machinery thinks at the time it will be able to control. That does not necessarily mean that we do not hope in due course to bring the whole Colony within the ambit of the Ordinance but, at the same time, it does allow us to begin slowly, and gradually develop.

If you have an Ordinance of this description, you have got to have someone to administer it. I do not make reference to clause 2, because that contains the ordinary definitions, but in clause 3 you have the establishment of a board. Since the committee, of which I had the honour to be chairman, reported on this subject, I notice that there has been an insertion, the Attorney General for some reason has been made chairman of the board. I merely state that in case anyone imagines that I signed a report recommending such a thing! He also has power to delegate his right as chairman to someone else, some other public officer. The object is, that when he is unable to sit he will be able to delegate his task to the Solicitor General. That is the intention. If neither can sit, it may be necessary under certain circumstances to nominate someone else.

Besides the Attorney General, there will be four members. It has not been decided who these members are going to be, but I can say generally that they will be people who, in the opinion of Your Excellency and Executive Council, are the most suited to serve on a board of this description. The Governor in Council will also have to appoint the servants of the board (there will have to be certain servants, in order to carry out various duties imposed under the Ordinance), and also to settle their remuneration.

Another important point is that the board is given power in sub-clause (6) to delegate their duties, not only to individual members of the board but also to any other person, such as a district commissioner or provincial commissioner. That is a matter of some small importance, because naturally you do not want to have a board of five careering all over the country, and by this power of delegation, which I have no doubt will be subject to conditions, a great deal of the work in different districts will be able to be done by the officers mentioned for and on behalf of the board.

Clause 4 is really the principal clause of the Bill. It definitely lays down that all goods vehicles which "ply for hire or reward, or for or in connexion with any trade or business" shall be licensed. That is in sub-clause (4) (a). It also provides in the next sub-clause that buses plying for hire, namely, motor vehicles which are capable of carrying more than six people—that is to all intents and purposes the definition of a bus in this Bill—will also have to be licensed. In addition, ships that ply for hire in inland waters will have to be licensed in the same way.

I might make reference here to the fact that no provision has been made for licensing aeroplanes. The reason for that is that they are already controlled by regulations which are made at home and which can be applied here by Government if necessary.

The next point of interest is the fact that, having laid down these hard and fast rules that practically all lorries and buses must be licensed, we proceed in clause 4 (4) to exclude various vehicles which clearly should not have to be licensed. If you scan the list you will see such vehicles as delivery vans, or vehicles used for bringing in goods for treatment such as coffee to be hulled (this is for agriculture particularly, such as a planter on an estate who wishes to bring in the product of his neighbour, and has been in the habit of so doing, and will be permitted to continue to do so).

We then make reference in sub-clause (5) to local and public authorities who are also brought in in order that they may obtain the exemptions mentioned in the previous sub-clause. This also exempts such things as trailers to a car, vehicles used for funerals, and so forth. There is general power of exemption at the end given the Governor in Council to exempt any class of vehicle should it become necessary to exempt them in special circumstances.

In clause 5 is the type of licence to be given, and all through this debate we shall be able to refer to them as A, B, and C licences.

An A licence, which is a public carrier's licence, deals with what we know generally as a haulier's licence, whose business it is to convey goods all over the country. B licence is a limited carrier's licence, and refers to a man, for instance, who has an estate in the country somewhere and who is in the habit of coming into Nairobi in order to obtain goods for that estate; under a B licence he will be able to bring in goods for hire and reward from the district in which he lives. A C licence is what is called "a private carrier's licence," which means in effect that everyone who has a lorry will have to have some small licence for the purpose of record and, to a certain extent, a very limited extent, control.

An important thing to note in that connexion, particularly with regard to the A and B licences, is that the board will be able to impose any conditions that it thinks fit. That is not quite as wide as those words imply, because later on in the Bill, and I will refer to it in due course, you will see that the board is restricted as to the type of conditions it is

In clause 2 is the type of licence to be given; and all through this debate we shall be able to refer to them as A, B, and C licences.

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An important thing to note in that connexion, particularly with regard to the A and B licences, is that the board will be able to impose any conditions that it thinks fit. That is not quite as wide as those words imply, because later on in the Bill, and I will refer to it in due course, you will see that the board is restricted as to the type of conditions it is able to impose.

At the end of clause 4 is a small sub-clause which gives the board power to act in case of emergency. It is a very necessary sub-clause, in my opinion, because it may be quite impossible to call the board together at a moment's notice and go through the necessary advertisements and so on, and the board is permitted to act in case of emergency. For instance, to permit a man holding a C licence to have the advantage of using it as if it were an A, or a B licence.

There are then set out the details as to which vehicles should be included in the licence granted, and it is perfectly obvious that you must give details of the vehicles you wish licensed in order that the board will be able to control the number of vehicles necessary in a particular district. For instance, there will be granted a licence for a 5-ton lorry, and that will not mean that a 10-ton lorry can be used, but provision is made for replacements so that if one lorry goes out of commission it will be very easy to get that replaced.

Licences will be in effect for one year from the date of being taken out, but we have made a provision to meet local conditions. There are temporary licences for a period not exceeding three months. The reason is that there are in this Colony certain periods, and many of those who work during those rush periods are not general hauliers and only want to work for hire or reward during that period when it is necessary for producers to get their stuff away in a hurry; we are thus permitted to give three months licences to meet that demand.

Licences are not, of course, transferable, and no licence confers a vested interest, although it is difficult to believe that if a man had a licence granted for some years and had not abused it he would not have it renewed. But there is no guarantee that if he chooses to sell out that the next person who comes in will also be granted a licence, and that is what clause 8 means.

We come to clause 9, which appears to be misunderstood generally. There has been a suggestion (I have seen it in the local Press), not by the editor of the paper who, I am sure, knew better, but by some correspondent or speaker, who was reported to have said that exclusive licences are not going to be subjected to all the restrictions, etc., attached to the A and B licences. If you read clause 9 you will see that, in the case of an exclusive licence, it will be advertised in exactly the same way as all other licences, objections will be heard in exactly the same manner, and there is this condition: that before the board can grant it it has to be approved by the Governor in Council.

Clause 10 merely sets out the form of application, and clause 11 gives a wide discretion in the case of A and B licences to the licensing board, and a very limited discretion as you see in (b) with regard to C licences. It also lays down a guide which must be followed by the board in considering these licences. Namely, if you read sub-clause (2) you will see that the licensing authority in exercising its discretion "shall have regard primarily to the public interest, including the interest or interests of persons requiring, as well as those of persons providing, facilities for transport." That will be one of the guiding principles of the board all through its deliberations.

You will also see at the end of sub-clause (2) some further guidance to the licensing authority of which they must take judicial notice. These sub-clauses are put in of malice aforethought, in order to bind the board so that when it comes to appeal as a provision of the law that judicial notice will be able to be taken of the fact that it has regarded (a), (b), (c) and (d) which appear at the end of clause 11.

Clause 12 is a saving clause and protects the interests of existing interests. Lorries with existing licences which have been plying for hire twelve months before they make application to the board will (subject to an inquiry as to whether the applicant is a desirable person) will have no difficulty in getting their licences. It provides in effect that unless there is some big and sufficient reason for not granting them, all licences that have been in force at the date of application for twelve months will automatically receive licences under this Ordinance.

There then follows a form of application in the case of passenger-carrying vehicles, and in clause 14 you will see again that the discretion of the board is limited. For instance, the board in granting these licences will be able to make reference—we are now referring to buses—to the suitability of the roads on which the service may be provided under the licence, namely, that a man when he applies may be restricted to travelling over main roads; the extent, if any, to which the needs of the proposed routes are already adequately served—if for instance, the board had already granted a licence to some bus company to ply between A and B and that more than adequately served those two places the board would have the right to refuse to grant another licence.

You will see at the end of clause 14 the manner in which objections will be heard. I want to make it perfectly clear that when applications are made for these licences they are advertised, and either those already licensed and ply in the district or the local authority may appear and be heard.

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Clause 15 deals with inland water transport licences and form of construction, and I am going to say very little about them though they follow *pari passu* with the road licences which will be mentioned from time to time, although of course there is only one type of inland water transport licence. Clause 16 gives the very necessary power to the board to obtain particulars whenever required for their investigation, and if the particulars are not given the board will have the right to refuse the licence until they are.

Part 4 deals again with road service licences—that is, bus services, and it will be seen that there are certain conditions attached to every licence by law. I refer to clause 17 (1) and this applies to goods vehicles as well as buses. It is interesting to note that it is a condition that all vehicles should be maintained in a fit condition; the point about that being this: It is all very well to go on the 1st of January and apply to the board for a licence; the lorry is examined and it is bound to be in good condition, and the licence is granted. But there is no guarantee that it will be kept in good condition, and therefore by law it is a condition of the licence that the lorry shall be kept in a serviceable condition if it is to be used on the road. Also, it is natural that it will comply with any law for the time being in force in such things as speed limits, weights and so on, laid down in any other Ordinance or rules.

There is power to these licences with regard to certain things. I have already mentioned one, namely—the route. It may be a condition in the licence only to ply along a route A to B; it may be a condition of the licence to take a certain class of goods; it may be a condition to forbid you to run about the town of Nairobi doing an ordinary haulier's work; also a condition may specify the maximum and minimum charge which may be made and the condition as to the employment of servants on these vehicles. In addition it will fix the maximum weight and of course this is important when considering the roads. I do not think I have mentioned it before but we hope as a result of this Bill becoming law to be able to prevent to some small extent a certain amount of the damage to roads which is done at present by lorries running in an unrestricted manner. Also in the licence is laid down the type of vehicle which may be used.

With regard to buses you may fix the fares and arrange the time table and when so fixed that will be a condition, and when application is made you can attach to the condition of the licence something of this description "that there will not be a charge of more than 50 cents a mile" or whatever the amount may be. You can also make conditions as to stopping places and the times the buses run and so forth.

All that I have said, or rather, a great deal of what I have said with regard to buses you will find applying to A and B licences which refer to lorries in clause 17 (4). There again you can fix the minimum price, limit the carrying of certain goods and specify the district within which it shall apply.

Now clause 18 is a restrictive clause, really on the board itself, but permits the board to make reasonable variations in a licence already granted. When a licence is once granted, merely because a man wished to change his vehicle from 3-tons to 4-tons or from 4-tons to 3-tons, it will not be unreasonable for the board to refuse him that transfer. You then come, under clause 19, to certain powers which are given to the board, e.g. where conditions specified in the licence have not been complied with when the board are authorized to revoke it. Naturally there will be the usual appeal if it is found that it has acted unjustly.

Clause 20 merely deals with the offences and the penalties, and clause 21 gives the manner in which applications may be made and heard and it lays down what I mentioned earlier—where an application is made to the board they shall publish details of that application giving opportunity to those in opposition to be heard. Sub-clause 4 is put in in order to make provision for any trifling or urgent matter being dealt with on the spot. That, I think, everyone will agree is a very necessary clause for reasons that I have given earlier on. Clause 22 makes the same provision for water transport and clause 23—probably the most important clause of all from the licensee's point of view of course—gives him the right to appeal to the Judge of the Supreme Court.

Part 5 deals exclusively with the offences and makes it an offence to forge a licence or commit perjury in making an application. The penalty is restricted to £20 for the first prosecution and conviction and £50 for the second. Clause 27 gives the Governor power to impose fees and clause 28 provides for regulations. Clause 29 merely sets out that records must be kept of the work and journeys made in order that the Licensing Board may be able to check up on you.

These, shortly, are the provisions of the new Bill. I want to make it clear at this juncture that this Bill is not introduced with the object of raising money. It is the intention of the Government to keep the fees as low as possible. And when I say as low as possible it is limited to so no further than that the fees should cover the expenses incurred by the new board whatever they may be, and I do not envisage for a moment that they will be high. I think I can truly say that the fees imposed will not be such as to inflict any hardship whatever on the licensees. I won't put it too definitely but it will only be a very small fee and in the case of C licences very small indeed, something perhaps about Sh. 5. These figures—I will make it clear—have not been gone into for until the Bill becomes an Ordinance the board will not be appointed and servants will not be appointed and so I cannot say anything definitely at this juncture, I will be very surprised if at any time the A licence, which will be the largest licence over a year will be more than Sh. 30.

A great deal has been said on this subject by those anxious to criticize it. I admit frankly that years ago it would have been called strong meat, because you are giving the board very considerable powers over the individual but recent history has proved that every civilized nation has had to come to this in order to protect itself—but I do think it is a very wise thing to introduce it now. As you have heard from me it means in

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MR. WILLAN seconded.

MR. HARRAGIN: Your Excellency, I might mention that with your leave and with the leave of Council of course, this Bill will be sent to a select committee.

MR. PANDYA: Your Excellency, the hon. and learned member, in moving the second reading of this Bill, mentioned that the object of this Bill is to prevent wasteful and cut-throat competition, and also to regulate hours of employment, etc. In my opinion, he appears to have forgotten the main and principle object of this Bill, which is to safeguard the revenue of the railway.

I should like to make it clear, and it has not been made clear, that the committee appointed "to investigate and consider the desirability of co-ordinating and regulating all forms of transport in the Colony," in paragraph 18 of their report, said:—

"We are aware that the Secretary of State and the Government of Kenya do not consider that legislation of the completely prohibiting type, such as the Carriage of Goods by Motor (Prohibition) Ordinance, 1932, which is designed to protect the railway against competition between the coast and certain up-country stations, can be maintained indefinitely, and that such protection as is justified in the public interest should be provided by a more flexible and modern type of legislation."

That makes quite clear the intention and main object of this Bill.

The hon. mover also said that it would inflict no immediate hardship or other hardships. In regard to this, the prohibition ordinance was very much opposed by the hon. Indian members. It might be assumed that the present Bill is an improvement on that Ordinance. In my opinion, if I compare the two, the one is the fever and the other is death, and we would prefer to have the fever (if we had the option) in preference to the death which, in my opinion, will be the result of this Bill.

This Bill, instead of reducing the hardships, will increase them. It will not only control the motor lorries or the motor buses, but will at the same time control the dhows which were never intended to be brought under control by this legislation. It will also not only regulate the transport between roads parallel to the railway, but will at the same time regulate or control the transport on roads which are not affecting the railway. On the whole, therefore, it would not be correct to say that this Bill is an improvement on the other measure.

In this connexion, we have in this country fortunately a philanthropic and obliging gentleman whose official designation is the Hon. the General Manager, Kenya and Uganda Railways and Harbours. He not only spared his valuable time—I am quite sure his time is very valuable, indeed—to prepare a very lengthy memorandum on the subject of control which he submitted to the committee of which he was a member, but he appears to have toiled very hard and burned a good deal of midnight oil in preparing the draft Bill which we see before us to-day.

I was under the impression that the legislation which we pass in this Council is generally prepared by the hon. and learned Attorney General, but it appears that, this time at least, he has been spared a great deal of the bother and trouble in the preparation of this piece of legislation. I was surprised that, for the first time, the hon. mover made any remarks appreciating or giving the hon. the General Manager thanks for his trouble! This Bill is very largely, word for word, taken from the Bill which the hon. the General Manager drafted for the consideration of the committee and which is published on page 61 of the report. It is not disputed that he had not a very great share in that drafting. It appears as Appendix H in the report.

In a letter to the General Manager of the Tanganyika Railways dated the 16th July, 1935, which appears on page 39 of the report, the hon. the General Manager, K.U.R.H., says:

"I am drafting model legislation for consideration" of the committee.

I should like to touch on the question of water-borne transport, or dhows, as affected by this Bill.

This committee, in their report, on page 11, paragraph 30, say:—

"With regard to inland water-borne services, we are satisfied that there is no reason to restrict native canoes, boats or dhows on the inland waters so long as they provide services in the public interest."

According to this quotation, it was not contemplated that dhows should form part of the control scheme because, in the next paragraph, it is made quite clear that it should be reserved for other craft of a more serious type which would be in competition with the existing interests, namely, the Railway.

This question was very lengthily discussed by a subsequent report, that of Sir Osborne Macge; and even the hon. the General Manager, in submitting a memorandum to this local committee, appears to have defined the water-borne transport system, in Appendix G on page 44, as follows:—

"Water-borne transport, apart from railway steamer and tug and lighter services, has existed for many years on the coast and also on Lake Victoria, where its chief form at the moment is dhows, providing a very cheap if some-

In this connexion, if we go a little further, we find that these primitive craft like dhows are also being allowed to carry commodities from different countries. We have to-day this system of dhow transport from India to East Africa and other places, and I have never heard of any steamship organization complaining against them or trying to control them, yet they are carrying articles at very low rates. It is exactly the same in the inland water-borne services between the various ports on Lake Nyanza.

The hon. mover has said that under clause 12 existing interests are to be safeguarded, and that people who have been running ships, dhows, and lorries for twelve months will get their licences automatically. I appreciate that that is a very good safeguard but, at the same time, it does not necessarily mean that these people will continue to have these licences every year, and once they are brought under the control of the Bill, the tests have to be applied that are mentioned in this Bill, which are rather difficult when the time comes to apply them.

There is another point in regard to the dhows, and about the issue of licences. In clause 15, the licences are supposed to be issued after reference to the other territories of Tanganyika and Uganda if the route to be used includes a portion of the inland waters of either territory. This procedure is not only very complicated, but at the same time very unfair on the people holding licences in Kenya. To-day they are not licensed, but they can go to any port and do business. Under this Bill, not only will the Government of Kenya restrict them for ports in Kenya but it can also try and restrict them for ports in the other territories. Although at first glance it might appear that the provision would facilitate the application of a Kenya man for a licence, and at the same time obtain through the same machinery a licence from Uganda and Tanganyika, I submit that that is hardly the case.

What will actually happen is that, if I understand the hon. mover correctly, he mentioned that similar legislation is likely to be enacted or is being enacted in the adjoining territories, and therefore we must assume that there also the issue of licences will be subject to similar restrictions as in Kenya. The procedure, as far as a Kenya man is concerned, would be that he applies for a licence for Kenya ports, and also expresses his intention that he would like to have a licence for Uganda and Tanganyika ports. But the licensing authority or the board here under the Bill does not take any responsibility of pleading his cause and replying to objections raised by the Governments or licensing authorities of the adjoining territories. Therefore he will be at a great disadvantage.

In this connexion, it would be more advisable if, after all, it has been decided to have such a control system particularly over the lake, to have an inter-territorial licensing authority or, in the alternative, it would be far better to allow an owner to apply for a licence in the various territories and be in a position to deal with objections raised in those territories to the grant of a licence to him.

Coming to clause 9 about exclusive licences, the hon. mover made it clear that the issue of these licences would be subject to the usual advertisement and hearing of objections. No doubt the actual procedure to be followed in regard to the issue of these licences would be subject to rules made under this Bill. But the important issue, and the main principle on which such licences would be issued, should be made clear. I submit that this

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Coming to the question of the composition of the board under this Bill, according to clause 3 it is suggested that the board should be formed with the Attorney General as chairman and four other members appointed by the Governor in Council. This provision is exactly the same as is suggested in the draft Bill of the hon. the General Manager. The hon. mover emphasized, and made it quite clear, that the people appointed on this board would be selected from the general point of view, but I should like to emphasize here that from every point of view it is very important that when such powers are delegated to the licensing authority all the interests concerned should be represented by independent people on that board.

In this connexion, Sir Osborne Mance in his report, after he had looked at it from all points of view and had travelled throughout all these territories and had satisfied himself about various interests involved, gave entirely different advice. On page 47, in paragraph 128 he said:—

"I envisage appointments on the following lines: One member with legal qualifications, two members commanding the confidence of the European and Indian communities respectively, one official member to watch the interests of the native population, and one member with a general economic outlook, such as a banker."

This appears to me, coming from a man from the outside, as a very important recommendation, and no reasons have been given by Government or the hon. mover as to why and what are the circumstances under which it has been found necessary to go beyond this recommendation of Sir Osborne Mance. If we are going to follow the recommendation of the General Manager, who no doubt wishes to keep this board in the form he has suggested, what are the sound arguments and reasons advanced for making a board of such representation?

The hon. Indian members take clear objection to the general principles and composition of these boards on general lines, and we are speaking from experience. We have to-day in this Colony provision for such general appointments on the Railway Advisory Council and the Harbour Advisory Board, and the result has been that the Indians have not been able to find a place in those boards. The Indians are considered to be unfit or to be of any use in such important bodies, and is there any guarantee that they would fare better in such a general provision of this nature under this Bill in a very important board which controls their destiny?

I think, Sir, it would be quite correct to say that the interests involved by this legislation are mainly, if not entirely, Indian. To-day we have on the road motor-torries, motor buses, which are very largely under the control of and run by Indians. To-day we have on Lake Victoria a water-borne service in the form of dhows, mainly controlled by Indians. I submit, is there any fairness or justice implied in this recommendation, that such interests should not be safeguarded by providing for their representation on this board?

It was this point, I submit, that Sir Osborne Mance very forcibly put into his arguments and recommendation as to the composition of such a board, which I submit is a very representative one, and one which should have been accepted by Government in this Bill.

I do not believe for a moment that if we bring these points forward to the notice of Government at the proper stage that it would be denied to us to have any representation on such a board, but I raise in these circumstances a legal and more substantial claim than the general clause to allow the Governor in Council to nominate an Indian on this Board. I submit that this is a very important issue from our point of view. If we cannot escape this modern legislation, which happens in very many cases to arise out of the necessities of the modern transport systems, I think the least which we can expect is to have these interests represented in a board which is going to deal with these things.

I hope, Sir, that this point will receive the favourable consideration of Government. I should also like to hear from the hon. the Attorney General when he replies to this debate that Government is prepared to give representation to these very important interests.

Now, Sir, this Bill and the restrictions which it imposes are subject to a test which they call "public interest". That is defined in this Bill as meaning "the interests and convenience of the inhabitants of the Colony as a whole." Further on, it defines it as meaning the interests of the people of various localities. This definition of public interest is very wide, and I submit it affords no protection to the interests concerned. When you can interpret a clause which is of so wide a nature it is very difficult to believe that anyone is going to get any benefit out of it. If local people are affected, the interests of the country as a whole must be taken into consideration, and when the interests of the country as a whole are taken into consideration the interests of the local people go by the board. So that I do not think it forms any guarantee of safeguarding interests under this clause.

I should like to draw attention to certain differences between the original draft recommended by the hon. the General Manager and the present Bill. Clause 3

I am not against such legislation; it is practically social legislation. I am not against the principle of hours of working being imposed on people who are working in different spheres of life. But I very strongly object to such principles being brought under this Bill. This Bill has nothing whatever to do with hours of employment or the way in which people work. The main object of it is to control transport, not wages and conditions and hours of employment.

Before I conclude, I should like to bring to the notice of this Council a very important provision which is supposed to be the main structure for the objects and reasons of such a Bill. Sir Osborne Mance in his report, page 59, has mentioned in his summary of conclusions that—

“Steps should be taken to reduce the highest railway rate to 50 cents per ton mile, the necessary compensation being found ~~either~~ by raising the lower class rates, other than those export rates which are based on world prices.”

I should like to ask the hon. the General Manager what attitude he and his Railway Advisory Council are going to take on issues like this? If you force on the country this legislation, which is restrictive, it is implied that simultaneously you also have to carry into effect the recommendations of an authority like Sir Osborne Mance. I believe that that is the main ground on which such legislation will be brought in. Will the railway be prepared to fulfil their part of the obligation before they ask other people to shoulder their burden for them? There is another reason at the present moment for the railway to make adjustments as suggested by Sir Osborne Mance, because I think they are in the very happy position, perhaps exceptional, that they have very large funds at their disposal, and we are all very much concerned to see that the higher rates should be brought down.

I oppose the motion.

The debate was adjourned.

ADJOURNMENT

Council adjourned till 10 a.m. on Tuesday, 9th November, 1937.

Tuesday, 9th November, 1937

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Tuesday, 9th November, 1937. His Excellency the Governor (Sir Robert Brooke-Popham, G.C.V.O., K.C.B., C.M.G., D.S.O., A.F.C.) presiding.

His Excellency opened the Council with prayer.

MINUTES

The minutes of the meeting of 5th November, 1937, were confirmed.

PAPER LAID

The following paper was laid on the table:—

By THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT:

Return of Land Grants, 1st July to 30th September, 1937, under the Crown Lands Ordinance.

ORAL ANSWERS TO QUESTIONS

No. 59—LADIES' COMPARTMENTS,
K. U. R. & H.

MR. ISHER DAS asked:—

Will the hon. General Manager of the Kenya and Uganda Railways and Harbours Administration be pleased to state whether arrangements for the reservation of the third class compartments for ladies have been made?

THE GENERAL MANAGER, K. U. R. & H. (SIR GODFREY RHODES): The Railway Administration has accepted the principle of providing a reserved compartment for women in third class bogie coaching stock, and the work of converting existing stock to provide such a compartment is proceeding as expeditiously as possible. To date, six coaches have been converted, and the remainder will be altered as opportunity offers. Twenty-nine new coaches on order are designed to provide a separate compartment for women passengers.

TRANSPORT LICENSING BILL SECOND READING

The debate was resumed.

MR. MANGAT: Your Excellency, the assurance given by the hon. and learned mover that this Bill is being submitted to a select committee is no consolation at all to me, because the committee might as well try to make a silken purse out of a sow's ear.

This Bill contemplates the congestion of traffic as it exists in Great Britain. It contemplates the competition between airways and roads as it existed or does exist in that same country. It also hopes that the inhabitants of this country have the same standard of civilization as the people living in that country.

The hon. mover, in introducing the Bill, made several apologies while he was doing so, because I cannot describe them as anything else: he was conscious of the fact that he was trying to impose something on this country which did not suit the country. He said that every civilized country has adopted a similar sort of Bill. That is a very extravagant claim to make, that this country is also so much civilized as to warrant the imposition of such a measure. The country had in 1936 only about 700 convictions for traffic offences, while in England they probably had 150,000 in one year. To claim that this country is so civilized when not so many offences in driving have occurred is really extravagant.

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Further, he said that this was trying to control and co-ordinate traffic. There is very little of co-ordination in this measure, but plenty of control.

The English Act from which this Bill has been compiled, the Road and Rail Traffic Act, 1933, provides not only for road transport representation, but to a certain extent provides for control on the railway, and the board appointed under that Act has certain powers to deal with the railways also. That Act does not include in it the control of public service vehicles, and it has nothing to do with shipping, except probably with the small shipping which operates in the canals of Great Britain. So I cannot possibly accept that this Bill is anything like the English Act.

As a matter of fact, certain parts of that Act have been taken up, while many good points have been left out of the Bill, points which were essential to safeguard the rights and liberties of the people who are to be governed by this Bill. The Act of Great Britain is based mainly on public interest, and this Bill many times enunciates that it is based on public interest. The phrase "public interest" has been defined, to my great surprise, because it is something which has not been defined in the Road and Rail Traffic Act of 1933, and it is I think as difficult to define as the hon. and learned Solicitor General once said to define a "reasonable man". But an attempt has been made to define "public interest" in this Bill.

Public interest in this country is not on the same level as public interest in England. Here we have at least three communities, of whom one numbers about 16,000, the next about 40,000, and then the predominant community, the indigenous natives, numbering about three million people. When you put into effect the provisions of a Bill in which you are to be guided by the public interest, I wonder which interest will be meant? Is it according to the rules of trusteeship that the native interest must prevail, or the interest of those who, as the hon. and learned Attorney General said, had reached the standard of civilization in this country?

I can see that if the native interest is to prevail, certainly this Bill will not give so much protection as the natives deserve. It certainly protects existing interests but it does not protect future interests. At the present moment natives have practically no share in the transport of this country, except probably as working as drivers of vehicles owned by other people. Shortly, however, the natives may be coming into possession of their own vehicles, and this control will be so much tightened that not a single native will be able to put a vehicle

on the road, for the needs of the community will then probably be sufficiently filled by the transport vehicles then on the roads, so I fail to understand how the predominant interests can be satisfied.

If you mean the interests only of those people who are civilized enough to be counted as having a share in the government of the country, that interest is small compared as to the main interest.

The hon. member Mr. Pandya had a great deal to say about the constitution of the licensing authority. He seemed to be content if Your Excellency gave representation to the Indian community on that licensing authority. I do not agree with him at all, because the licensing authority, when you read all the qualifications contained in clause 3—is really nothing but the chairman and one member of the board, or a district commissioner or provincial commissioner.

The licensing authority may meet, and then simply delegate its powers either to its members or all the district commissioners and provincial commissioners, and after that it need not meet. Another meeting would not be called, and there is no provision, as far as I can see, that once it has delegated its powers that it can revoke them. So what it comes to is that whether there is an Indian representative on that licensing authority or not, its powers can be delegated, because that is the only practical thing to do, to provincial commissioners and district commissioners, except that the chairman may from time to time give approval to the actions of the delegated authorities.

A great deal has been said in the Press about the Indian attitude towards this Bill. I wish to say that we shall have no objection to the Bill if it is put on a basis which gives in its government a share not only to us but to all the interests affected, a proper share as is given in the English Act.

This Act of 1933 has a constitution of its own. This, shortly, is that the licensing authority comes first, this being the chairman of the Traffic Commissioners for any particular traffic area. To hear appeals from his decisions there is the Appeals Tribunal, which is more or less our licensing authority here. Then comes the Minister of Transport, and with him there are various Advisory Councils. One may say that under this Bill we have first the licensing authority as constituted under clause 3, after which we have the Supreme Court which may hear appeals from that licensing authority, and then we have the Governor in Council, who are in the same position as the Minister of Transport; then we have the advisory boards of the railway and roads.

But the fundamental difference in this constitution is that while our advisory boards do not take anybody they do not consider clever or intelligent enough in these matters, in Great Britain the boards are properly constituted of representatives of the people affected. The advisory boards under the English Act consist of: users of mechanically propelled vehicles, 5; trading interests (including agriculture), 5; local authorities, 6; railways, 3; labour, 3; coastwise shipping, 2; users of horses and horse-drawn vehicles, pedestrians, pedal cyclists, canals, and harbours and docks, 1 each, making altogether 29 members. Here, the Railway Advisory Council so far has not even found a place for one Indian out of the 40,000 stationary population of the country who is able enough, in Government's opinion, to serve with other members.

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If you give us that constitution which is provided in the English Act, if you wish to impose a measure on more or less the same lines as that, give us this constitution also, and we are prepared to come in, thus giving proper representation to all interests. If you give us that constitution I assure you, Sir, that you will have our whole-hearted support. But, if Government cannot give us the assurance that Indians will be represented at all how can you expect us to support a Bill which is meant to govern these interests but yet is not meant to invest them with any responsibility in that government?

As I said before, clause 3 (6) gives full authority to the licensing authority to delegate its powers to any official. Once that power is delegated, it really comes to this, that the chairman of the board and that official are the sole masters of the conduct of this Bill. The other members of the licensing authority will have no voice in saying what should be done or what should not be done.

The licences provided for in this Bill are on the same basis as in England. It is most unfortunate, in my opinion, that Sir Osborne Mance when drafting his report was considerably influenced by the legislation in England. He constantly refers to the A, B and C licences in his report. But he took the line of least resistance. He simply looked up the English Act and said, it might do for this Colony. I wish he had produced something which could be applied to this country, something different from the Act which applies in England, because I say with confidence that conditions in England are far different from conditions in this country.

He might have thought that that Act could be applied to certain portions of East Africa. It might possibly be applied to Uganda, which is more advanced and is much more civilized, as far as the native population is concerned, than Kenya, while the roads are in better condition, thus offering a great temptation to speed. This Bill might usefully have been imposed in Uganda, but in Kenya Sir Osborne Mance himself admits that the transport problem is in the hands of more responsible people, not in the hands of people as it is in Uganda, that the transport problem was being controlled by people who are responsible. In making his recommendations, if he referred to A, B and C licences, he should have produced something which would have applied to conditions in this country. He did not, and, more unfortunately still, after his report came out our Government also took the same line and conveniently brought out a Bill on the lines of the English Act.

In England, the licensing authority is the licensing officers whom Your Excellency is empowered to appoint here under the Traffic Ordinance. And that is the most practical thing to do. You have now licensing officers for nearly every district. They examine the vehicles, issue licences, control the traffic, and in fact have a separate office called the Traffic Office under the control of the Commissioner of Police. If these licensing officers have been coping with this traffic so far, and, I should say, satisfactorily, why have a special board consisting of these members? It is most unusual, and what necessity is there for it while the police officers have been doing it and can do it? The constituted in this Bill of three or four members, instead of becoming a sort of appeal court, has become as it were licensing officers, while appeals lie to the Supreme Court with the inevitable waste of time and of money in following the procedure of civil suits.

The licensing authority will be the district commissioner or provincial commissioner with the chairman, who will ratify or approve their actions. Even if representation on this board is given to the Indians or any other interests, it would merely be a matter of form.

The next clause I wish to deal with in the Bill is clause 6. Under this is fixed the duration of all licences, unless previously revoked, for one year. These licences differ, they are for different purposes, and I think in England you get, for instance, an A licence issued for two years at a time, a B licence for one year, and a C licence for three years. I consider that is a most excellent way of dealing with the problem. Licence C, as it does not harm anybody at all, it is a private licence for an individual or firm carrying on their own business, why make it that every year they have to ask for a fresh licence? It should be for three years unless they wish to change it for another type of licence. But here we fix the period for one year in every case.

If this Bill is going to pass at all, these periods should vary according to the merits of each licence.

Under clause 7, you make a licence non-transferable. That is a very good thing to do because, after all, licences are valuable assets which should not be transferred so lightly. But, all the same, I wonder what will happen to the man who wishes to sell a lorry which is licensed and he is not allowed to transfer his licence, or, if he wishes to leave the country and after disposing of his transport vehicles he is unable to transfer the licence unless he has the leave of the licensing authority? Even then there can be no objections to that transfer, for if a man puts in an application for a licence it may not, because of his bad conduct, be approved. Again, if he wishes to have a lorry he has brought from some other person licensed, there may be objections. But how can a man who closes his business and wishes to leave the country dispose of his lorries unless the licence is transferable?

Clause 9 of this Bill gives exclusive licences. This is a very dangerous principle. If you really wish to safeguard the interests of natives you must not, in my opinion, allow anything of this sort. An exclusive licence may have its advantages in populous towns where a certain sort of control is really desirable, but in this country where we have vast tracks of land with sparse populations, where the traffic is not confined to the roads at all but to side roads and tracks where the population lives in villages, I think the granting of exclusive licences will be a

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This clause does not only give the licensing authority power to put special conditions on A and B licences, but under sub-clause (b), "on an application for a C licence, shall grant the application, subject to such conditions as may be necessary in the public interest." Again these words "public interest" have been put forward as a shield. In the previous Bill published for criticism, it was compulsory for the licensing authority to issue a C licence, and it is so in England; you cannot stop the issue of a C licence unless the applicant is the holder of a licence which has been suspended or revoked. In the English Act it does not say "subject to such conditions as may be necessary in the public interest." There are no conditions to the issue of a C licence. If you impose conditions, a man will be deprived of making use of his own lorry for his own business. A C licence should not be exposed to such danger from the licensing authority. I do not know why, after the first Bill was published, this condition was found to be essential, this condition of public interest, so that a C licence could not be issued without being subject to conditions.

In the same clause, the licensing authority "shall have regard" to certain circumstances, primarily, of course, public interest, whatever that may mean in this country, in proceeding to issue A, B or C licences. There is an additional clause in the English Act which I think could have been applied very usefully to this country. It says, "To the extent to which the vehicles to be authorized will be in substitution for horse-drawn vehicles previously used by the applicant for the purpose of his business as a carrier." I will go further and say that even a man who is carrying on a transport business with bullock carts should be allowed to substitute them for lorries. That is the way to induce him to take some progressive action, not that a man now carrying on with horses should be deprived of being able to have motor transport and be treated as a new applicant under this Bill.

There is another additional section, a very important one, in the English Act, which is missing from this Bill. That section is: "In any case in which the licensing authority refuses to grant a licence, or grants a licence which differs from the licence applied for, or imposes conditions to which the applicant does not agree, the licensing authority shall, if requested by the applicant, state in writing the reasons for its decision." This is missing, and I think it most essential it should be in the Bill, because when a case goes to appeal, there must be some record as to why the licensing authority have refused that licence. There is provision that if a licence is suspended the licensing authority shall state its reason, but, prior to this, it is also essential that the authority must state its reason why it will not give a licence.

Coming to clause 12, this is "Protection of existing interests" according to the marginal note. We were given to understand by the hon. and learned Attorney General that existing interests will not be prejudiced at all, that there would be a more or less automatic process of renewing licences. But I would ask Your Excellency to read with special care the words that occur in line 8 of this clause 12: "having regard to the previous character of the applicant as a carrier of goods, he is not a fit person to receive a licence."

When existing interests put in their application for the issue of licences, why should the licensing authority go beyond what is the present? Why should they go back to the conduct of an applicant before the application is submitted, and why give the right to the licensing authority to

empted from the operation of this Bill, for the reason that the passenger traffic of the Railway is probably 8 per cent of the whole amount, and it is not so vitally affected as in the case of the carriage of passengers. Then we have the difficulty in this country of the railway stations being at distances of several miles from the towns proper. Take the case of Thika or Nyeri. At Nyeri the station is nine miles away, and at Thika about three miles, and transport is not available in those out-of-the-way places.

This traffic is amply regulated by the Traffic Ordinance, 1928.

There are further restrictions, which will be a great hardship on the people who use this motor transport. Now we have passenger vehicles from one point to another; they even collect people from their houses and leave them at their houses, and even go out of the way up side tracks. I would urge on Government, even if this Bill comes into force, that passenger vehicles should be excluded and remain controlled as they are under the present Ordinance, or a separate Bill be brought in for the purpose.

Then we come to "Part C—Inland Water Transport Licences." My colleague the hon. member Mr. Pandya dealt with this on the ground that it was not desirable, and Sir Osborne Mance repeatedly says himself that there is no need for interference with the dhows on Lake Victoria. This is his recommendation, and I do not see any reason why, in spite of that, Government should bring in a Bill to govern these dhows and the small waterways traffic.

Under clause 16—"D—General"—is "power to call for further particulars". It is quite right if the licensing authority should do so, but the last three lines of the clause require the applicant to give particulars of "the wages and conditions and hours of employment of persons employed in connexion with the vehicles or ships proposed to be used under the licence." Again, I am sorry to repeat it, the conditions prevailing in this country do not warrant such a mass of conditions. How can you imagine a native driver to be capable of keeping a register and records of work asked from him in other clauses, and charges and conditions and hours of employment? The hours of employment are very uncertain. If he goes with his lorry to Moshi he may stick on the road and may be there for three days. For that time he may not be idle, but hard at work trying to get his lorry out of the mud.

I think it absurd that these conditions should be made for the people in charge of the transport in this country.

Under clause 17 certain conditions are imposed; the vehicles to be licensed must comply with certain provisions before they are put on the road. I submit that these matters are already provided for under the Traffic Ordinance.

It may be that the provisions of the Traffic Ordinance are not enforced as strongly as they should be. At the same time, there is no guarantee that the provisions of this Bill will be enforced strongly, but there they are. Certainly the Traffic Ordinance does not allow a motor vehicle to be put on the road unless it is in a fit condition with two efficient brakes, a good horn, an efficient silencer, and all those things. And perhaps the conditions are more comprehensive than in this Bill, but we are repeating them here to make them a condition precedent to the issue of a licence.

It may be that if any of these conditions are violated by anybody his licence may be liable to suspension or revocation. That is very hard. Under the present law, if a man contravenes any section of the Traffic Ordinance he is summoned to the court and has a full opportunity of producing evidence; if he is found guilty he may be fined. It is only in very serious

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Then we have that "Passengers shall not be taken up or shall not be set down except at specified points." Again, are conditions in this country such that you can comply with this condition? You cannot if you wish so. No matter how conscientious a driver may be, he cannot possibly be told by the licensing authority to start at a certain point and stop and set down at certain points. You find passengers starting from Nairobi on foot for some place, and they are picked up and set down at any point which is convenient to their village.

Coming to clause 19, it gives power to the licensing authority to revoke or suspend a licence. This again is a very wide power. A licence in any class, including C licences, which is a very simple one, may be revoked or suspended on the ground that some of the conditions have not been complied with. It will be very difficult for people to retain their licences because they have to comply with so many conditions, and it is absurd to expect native drivers to comply with them.

Again, it is regrettable that a most important section of the English Act has been left out. Here, full power is given to the licensing authority to suspend or revoke a licence. In the English Act there is a proviso which reads, "Provided that the licensing authority shall not revoke or suspend a licence unless he is satisfied, after holding a public inquiry, that the person concerned has been wilfully and consistently contravening the provisions of the law." That is a very essential provision, for you must give a chance to people affected by it. He can demand an inquiry, and only if it is found that a condition has been wilfully broken is his licence suspended.

On page 18 of this Bill we have clause 18 (3) (a) which reads, "an application which the licensing authority is bound to grant". It may be a matter of amendment, but it bears on the principle of the Bill, for in this Bill there is not a single application which the licensing authority is bound to grant. They have always got something in hand, something up their sleeve! I would have expected that at least applications for C licences would necessarily be granted, but that is also reserved, and I cannot see a single thing in this Bill where an application is bound to be granted by the licensing authority.

Coming to clause 18 (5), it says, "The licensing authority may hold such inquiries as it thinks necessary for the proper exercise of its functions under this Ordinance"—I have no objection to that—but "including inquiries into the applicant's reliability, financial stability, and the facilities at his disposal for carrying out mechanical repairs." Is not that most unnecessary? Why should the licensing authority go into the financial status of a man applying for a licence? What right has it?

Supposing a man obtained assistance from a moneylender and he does not disclose it in the particulars, he might be convicted under the Ordinance for not giving particulars. I do not think such a provision occurs in the English Act, for I do not believe the English people are so foolish as to expose their people to a public inquiry. If you begin to make such inquiries you will have people asked to render their balance-sheets, and in the case of individuals it will be impossible to do so. Again, under the Traffic Ordinance, if a vehicle is not fit to go on the road it is not fit and is stopped. Here, you want an applicant to give security that if his vehicle breaks down he will repair it. Under the existing Ordinance, if the vehicle is out of order the whole licence is lost. There is no sound reason to subject a man to such security under this Bill.

Coming to clause 23. This is the appeals section. Under this is given the right of appeal to three parties: the applicant,

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The point is that if you go to the Supreme Court and appeal you have first to pay the fees. Under this Bill, no indication is given that in cases of hardship there will be remission of those fees, but in England there is such provision. Here, the man pays the fees, the appeal will be taken in the Supreme Court before a judge, who "may permit any party to appear before him either personally or by advocate." Why "may"? What is the meaning of appeal? Even in civil appeals the party has the right to be heard, and even in the criminal court the man convicted is heard. Here it is said that he "may" be heard personally or through his advocate.

First, I should like to give these appeals to a sort of tribunal, as in England, where matters can be discussed freely and without the formalities of the court, and in the absence of an atmosphere which is strange, and where the costs are less, because you cannot get out of court without spending something! There are no rules apparently to govern appeals under this Bill, but I take it that the Civil Procedure Rules will apply.

If the appeal is by an applicant for a licence, who is responsible for his costs for going to that appeal? Is Government going to pay if it loses, or is he going to be mulcted in these costs? There is no provision for that, but no matter whether he loses or wins there is a great amount of money involved, and costs would be awarded and taxed by the Registrar. It will be found that it costs about £25 or so for one appeal. I take it that the board would be represented by the Attorney General, and the applicant may be a poor native.

Coming to the "Miscellaneous Provisions" on page 21, here "the Governor in Council may make regulations for any purpose for which regulations may be made under this Ordinance." In every Bill which comes before this Council we give that power to the Governor in Council, but I say that the regulations are as much the law of the country as the provisions of a Bill are, and the regulations are simply made and published and begin to be the law of the land without the approval of this Legislative Council. For instance, under the Road and Rail Transport Act, the Minister of Transport has power to make regulations. Our Governor in Council is more or less in the same position as the Minister of Transport in England as regards these matters. The Minister is empowered to make regulations; but under what conditions?

The first condition is that when making them he may or should consult representative bodies who are going to be affected by them. He usually does consult them. Secondly, the most important thing, when he has framed them he must submit them to both Houses of Parliament for approval; and when that approval is given they become law. That is the most important condition attached to those regulations in England. Here, the Governor in Council receives regulations framed by one head of a department, and they become law. It should not be so, and when the whole population of the country is going to be affected by them they must be submitted to the Legislative Council for approval.

Among the "Objects and Reasons" we have this clause: "Such expenditure of public funds as will be necessary if this Bill becomes law will be covered by additional revenue." The very words "additional revenue" are clearly annoying to anybody in this country. We have had enough of additional revenue, and the transport people who have to make it up will pass it on to the consumer or the public or those people in whose interests you say you are imposing the Bill on the country, even if it is another Sh. 5 or Sh. 30.

But there are no schedules attached to the Bill as there are in the Traffic Ordinance to show what the charges will be. It may be nothing, and the present estimate may not be enough to cope with the staff and establishment, and you may have to increase the expenditure. There will be some; it may be small, but that is not the point.

I wonder whether it will be worth while to have another commission of inquiry to investigate and report as to whether the Railway itself is necessary for the country? Sir Osborne Wance said it was, but he said so without calling on anybody to say otherwise or give evidence. I maintain it would be better for the country if we had metalled roads and transport by vehicles instead of transport by one train for 700 miles.

I do not think this Bill can possibly be remedied through a select committee, and it should be absolutely scrapped. If you want anything like this, bring in something applicable to the conditions in this country: The traffic is small, and I do not see that it is so congested as to warrant

With regard to Mr. Mangat's remarks early in his speech, I question very much whether it is possible to consider this Bill as being contrary to native interests. I think we have got to go no further than our neighbour Uganda to realize how much it is in the native interests. There, a Bill was recently passed—what may almost be described as emergency legislation—in order to protect the natives, and the natives alone, from this racing for traffic on the roads which was becoming a public danger and a public nuisance. It is true in general that the conditions of this country are somewhat different from those in Uganda, but surely the only wise and sensible way is for us to provide ourselves now with the means of dealing with this sort of thing instead of waiting until the emergency arises.

It was further suggested that we were passing legislation here which would enable the licensing authority to usurp the functions of this Council, and yet in clause 17, to which he referred in some length, it most particularly and precisely laid down what are the conditions the licensing authority either "shall" or "may" impose. More particularly in regard to that clause, he drew attention to clause 17 (2) (e). I think the exact words "as may be prescribed" does not provide the licensing authority with the power to prescribe conditions of its own but these conditions have to be prescribed by Your Excellency in Council. On his further point, I rather agree with him, that they should be subject to the approval of this Council, as we have suggested in other Bills recently.

In regard to this Bill there are a few points I do think the select committee might view in some detail, and among them are the following to which I would refer. I wish to refer to those clauses where it lays down what the licensing authority shall have regard to when considering the issue of licences.

Look at clause 14, at the bottom of the page. It lays down among other things particularly that they should take into consideration such representations as may be made by the local authority in whose area the route is situated. I think this is entirely proper and correct. Look at clause 11, the clause dealing with A licences for goods traffic. These words are not included, and in regard to the underlying principle of the public interest authority is one of the most valuable in this Bill. I do think that the local bodies which such a board as the licensing board could consult. And the same remark applies to clause 21, towards the end of which I would point out once more that they could probably take it into consideration.

There again it makes no reference to representation by the local authority, and I suggest that this should be carefully examined and in all these cases reference to the local authority should be included. I may say that it is no more than carrying on what is the existing practice to-day in regard to almost all these matters, such as alienation of land, plots in townships and the granting of licences of various other kinds. It is almost always the custom in this country in these cases for the board in question to refer to the local authority before they give their decision, and I hope that will be made obligatory in this Bill.

As regards clause 17 of the Bill, I think it is a very important, a supremely important, clause, for it lays down what the conditions are which must be or may be imposed by the board in order that the licensees shall carry out their services in a proper manner; and 17 (1) (b), referring to the previous and existing Traffic Ordinance, is of course equally important. We must realize that at the present time as regards the transport on the roads of this Colony the provisions of the Traffic Ordinance are to all intents and purposes ignored. I do not think any motorist in

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is proper to avoid all that difficulty, and if there is to be an appeal it should be made to His Excellency the Governor in Council. I can see no purpose which can be served by referring it to the Supreme Court other than giving the members of the legal profession further opportunities of displaying the mysteries of their art, and, incidentally, augmenting their income! I think the work of the board would be severely hampered by a system of appeal to the Supreme Court.

These are the points I wish to draw attention to, and in conclusion I would say that we have here a Bill which it should be possible for the Select Committee to return to us in very good shape indeed.

COL. KIRKWOOD: I am in support of the general principles outlined in the Bill before the House.

With reference to clause 3, which lays down the appointment of the Attorney General as chairman, I quite agree, and also agree to four as a reasonable number to compose the board to be appointed by the Governor in Council. But I would suggest the addition of (e) to this clause to provide that the hon. the General Manager or his nominee should be an *ex officio* member.

A Bill is long overdue to regulate and co-ordinate transport in the Colony, both with regard to vehicles and on our inland waters. There is a great deal of uneconomic competition going on at the moment by them, both inadvisable and not in the interests of the owners of transport in many cases and not in the interests of the natives as a whole. That is, the methods and manners in which it is carried out. Terrific damage was done during the rains with top-heavy, overloaded vehicles. Also I have met, myself, while travelling between here and Kitale—and I refer to the vehicles operating between Nairobi and Kisumu—and I have followed these vehicles and on more than one occasion I found that they had done a tremendous amount of damage to the roads even in one trip.

With regard to clause 17, it gives a great deal of power to the board, such as laying down wages and the hours of service. One might argue that it is interfering with the liberty of the subject. But I think that is rather a narrow-minded point of view to take because, after all, this Ordinance will improve the conditions of transport both on the inland waters and on our roads and give us much better service. One is not going to quibble at the Board having this power, which I am quite sure they will use in a reasonable manner. Also they will have the right to seek the advice of the local authority, who will be very helpful to them, I am quite sure, when the occasion arises to ask for their advice with regard to local conditions.

The Bill itself is wholly on the right lines and as I have already said, it is long overdue, and I hope it will very shortly be on the statute book of this Colony. I hope consideration will be given in select committee to the suggestion that the Commissioner of Police should be invited to attend and asked to state his views as regards the effect of this measure when it becomes law; on the personnel of the police, as it is bound to have some effect.

I also hope assurance will be given that this measure will be in no way used as a financial measure to raise revenue; that the licence fee will be purely a nominal one to cover the operations of the board.

As regards the composition of the board, this is left to the Governor in Council, and I think very wisely. I hope no arguments will be put up, as there have been as a matter of fact, which I regret, on racial lines. I see no racialism in this Bill whatever, and I see no reason

The ordinary arguments adduced here in respect of controlling road transport, such as the danger to the life of citizens from road hogs, cannot possibly be carried on as an argument in respect of lake traffic, and nobody would suggest, for instance, that a water-hog in the form of a dhow is liable to ram one of the elaborate passenger steamers of the Kenya Railways! Therefore none of the ordinary arguments that apply to the control of the traffic on the roads apply to the lake.

I was at one time the unfortunate owner of dhows on the lake, and it must be remembered that a very large amount of inter-port traffic and minor traffic totally unprovided for by the railway has got to be carried by private enterprise. I think it has already been pointed out by some of my hon. Indian colleagues that the dhows on the lake system preceded what transport facilities were subsequently provided by Government. It is now forty years since I first moved on the inland waters of Africa. At that time one moved on a dhow because it was the only known method of moving on the water at all.

I believe that this is part and parcel, certainly the part that applies to inland waterways, of an attempt to get complete control, a complete, exclusive control, of every specific form of movement in this country for the benefit of the Railway. I think that that is entirely wrong in principle, and I object very strongly to any application of these principles to the inland waters. I am not sure even that it is a right and proper procedure or even within the powers of this body, because there is such a thing as the conventional Basin of the Congo Treaties, which still persist in all sorts of directions, and they provide for absolutely free access on the part of all people to the inland waterways of this country. I am rather in doubt as to whether the powers we are now trying to take can actually be taken by us.

There are other attempts on the lake to secure this vicious form of monopoly. Take the case of the piers constructed years ago on the lake by private enterprise to carry on the traffic and work of the lake. All of a sudden, the owners of the piers, a little while ago, were informed that they were going to be charged some fantastic rate for unloading their own produce carried there by their own dhows on to their own property, in order to prevent any effective competition with some pier put up not very far away by the railway system.

I do seriously trust that the select committee, when they have this matter under consideration, will pay special attention to the question of these inland waters, and come to the conclusion that no case whatever has been made out or could be made out for imposing this monopoly, because that is what it really amounts to, on legitimate transport work carried out by small and helpless citizens on Lake Victoria, particularly as it is rapidly some day going to become a place next in importance to the Mediterranean.

MR. SHAMSUD-DEEN: Your Excellency, it was a great pleasure to hear the last speaker agreeing on certain points with the Indian members have previously spoken, for the opposite has invariably been the case, and both European and Indian members have been guilty of this, thereby creating an attitude that whatever may be supported by the unofficial European members the Indians must oppose it, and vice versa.

As regards this Bill, the hon. Member for Trans Nzoia (Col. Kirkwood) brought in some question of racial consideration in the composition of the board. The whole difficulty in this Council with this Bill is that the trouble that there is to be

My hon. Indian colleagues, I think, have put their case in detail before Council, but I think it my duty just to state a few points on behalf of a section of my community which represents the commercial interests of this Colony to a very large extent. This is the Federation of Indian Chambers of Commerce and Industry of Eastern Africa, who say of this Bill:—

"While this Federation is not opposed to the road transport being regulated for matters such as the safety and convenience of public dimensions, weight, upkeep, speed and loading of vehicles, conditions of labour and qualifications of drivers, etc., it is opposed to undue and unnecessary restrictions calculated to bring about a complete prohibition and making it practically impossible for the road transport to compete with the Railway under reasonable conditions."

I think the hon. Member for Ukamba (Sir R. Shaw) laid some stress on the roads being used in a very bad manner by the lorries and certain rules of safety being ignored. Nobody will oppose any measure that might be brought in for the regulation of driving, but this is complete prohibition, and what is really intended is that all these motor lorries used on roads running parallel with the Railway shall be completely eliminated, as well as the dhows. Nobody has been able to explain to this Council the real reason why the Railway should suddenly emerge out of a condition of bankruptcy into almost unparalleled prosperity. What is the cause of it? The cause of it has been that most of the money the Railway earns to-day represents the wages of hundreds of Indians and natives who were hitherto employed in the motor industry. Now it is proposed to extend the prohibition to all those members who are still employed.

I can see from this Bill that there will be nothing to prevent the board applying the same rules of prohibition which exist to-day between Mombasa and Nairobi to the roads between here and Kisumu. I think that in this connexion perhaps I will just quote another paragraph of the views of the Federation of Indian Chambers:—

"The Bill if passed into law will greatly discourage the motor transport industry and thus minimize the possibilities of the extension and full development of a flexible transport the absence of which constitutes, during peace time, compulsion for the general public to use only one means of transport over which they have neither any control or any influence and may be very inconvenient from the point of view of the defence of the country during any war."

That is one point that ought to be considered. We had some experience of this Railway during the last war. I do not anticipate or feel any alarm if we have a war in the future, but I do suggest the possibility is always there, and in the case of such an eventuality we ought to have our motor transport and road transport ready in such a way that we should not be left entirely at the mercy of one railway service.

A lot has been said by my hon. friends regarding the passenger traffic. Again, with Your Excellency's permission, I should like to quote a further paragraph which sets out the views of the Indian Merchants Federation:—

"As regards the passenger traffic, it is against the public interests and policy to protect and give monopoly to a Railway which no longer conforms to the modern ideas of speed, comfort and economical fares expected by the general public. It is hopelessly slow, being incapable of accelerating the speed by reason of its narrow track and other engineering difficulties. It is ex-

I and my colleagues went to great length in insisting that the formation of that board should be on the basis of representation of certain interests. That still exists, although I think certain suggestions of the hon. members were not adopted. But the principle is there, that representation of certain interests should be made and the board constituted accordingly.

A great deal has been said about this Bill going to select committee. My experience of the past of select committees is that as a rule one Indian member is selected, and is there more or less on sufferance. In this case I must say that I almost modified my views after hearing the hon. Member for the Coast (Major Grogan), but the way it is supported by the other unofficial European members I submit that unless an equal number of European and Indian unofficial members are appointed on the committee no useful purpose will be served by appointing one, or two, Indian members to serve, because they can be quite easily out-voted, while if there is only one Indian member he seldom has a seconder, much less the opportunity for consultation.

As regards the committee whose report is embodied in the Bill, the formation of that committee itself was a very novel one. It had on it a member who was an interested party. When I say interested, I do not mean personally, but he was the head of the administration of the railway system to which it is sought to give a complete monopoly. If that was the case, it was only fair that representatives of the motor and transport industries should also have been on the committee.

This member of that committee who seeks to obtain a complete monopoly not only sits on the committee but sends in a memorandum from himself as a member of the committee, and then pronounces judgment on it. So that he was there in the capacity of litigant as well as judge. The constitution of that committee I think was very wrong, and I do not think my hon. friend Mr. Pandya can be blamed for having presumed that this Bill had been drafted by the member to whom I refer.

Of course, the amount of revenue which Government is deprived of by giving this monopoly to the Railway is not a secret, and the real explanation of the prosperity of the Railway is that it gets a very large sum of money that ought to go into the revenues of Government and to natives and Indians employed in motor transport, and also to European importers of motor vehicles. That is how the Railway safeguards its revenues.

In that connexion, I beg Your Excellency's permission to quote one more extract from this memorandum of the Indian Federation:—

"A perusal of the Report of the Transport Co-ordination Committee appointed in 1935 to 'investigate and consider the desirability of co-ordinating and regulating all forms of transport in the Colony,' upon whose recommendation the proposed Bill is being introduced, shows clearly that they have completely deviated from their terms of reference and the object of the Bill recommended by them is neither co-ordination nor the regulation of the transport in the Colony but its whole object is to bring about a complete prohibition of the road transport not only running parallel to the Railway as is the case at present, but also to prohibit and prevent all possibilities of the same conveying goods by long and circuitous ways thus eliminating the remotest chances of the road transport competing with the Railway, and thus

It has been suggested by certain people outside this Council that this Ordinance might, with some wisdom, be passed for one year only, with powers to renew it again from year to year, for a period of trial. I do not say that this is necessary, but I do hope that we shall be given assurance that this Ordinance will come up for review next year in the light of the experience which will have been gained on its working during the trial period, because in every single country where they have had an Ordinance of this nature over a period of a year or so they have had to bring in very drastic amendments, based very often on local conditions, which differ in different parts of the world.

With regard to the board which it is proposed to create, I would like to make one or two suggestions. In the first place, I think there should be a time limit to membership of the Central Board, which I do not think has been provided in this Ordinance. It is a pity to create posts which are to continue interminably. After a time it is very difficult to get rid of any of the members who may have become obsolescent personnel. I think three years at the outside would be a reasonable limit for the appointment of members of this committee.

I venture to disagree with my friend the hon. Member for Trans Nzoia (Col. Kirkwood) in that I do not think the Railway or its representative should in any shape or form be a member, *ex officio* or otherwise, on this board. I think that probably the simplest thing would simply be to suggest that the board should consist of one chairman, to be the Attorney General, and four members; that their period of office should be for three years; and that none of them should be officers, apart from the Attorney General, or servants of the Administration. And, of course, I agree that they should disclose any financial interest they may have in any transport company or in transportation generally. I am not sure whether we ought not to make provision for local boards, but possibly that can be taken up by the select committee, and possibly, as has been suggested, local authorities could act as local boards, as they do in other parts of the world, except that, of course, we have not yet got local authorities in all parts of this country.

As regards the exceptions which are outlined at the end of clause 4, I have one or two points to raise.

The first is, I am not quite sure whether it is necessary to have this C form of licence. I gather from clause 5 (4) that every single vehicle capable of carrying goods in the Colony will have to have one or other form of licence. In other countries, what they do with vehicles that are merely carrying private goods, is simply to give exemption from the obligation to take out a carrier's licence. Whether it would not be easier to do this and do away with the C form of licence is a matter which may, perhaps, be gone into and considered by the select committee.

As regards the exemptions, there are one or two that have been left out, though they seem to have been provided for in other acts of a similar kind. Taxis have not been dealt with, and in most Bills there is provision for taxis, other than taxis plying for hire in places in competition with the railway. It may be that here taxis are covered by "vehicles carrying less than six people". Ambulances do not receive any consideration, nor do hotel buses carrying passengers from the railway station. Vehicles carrying school-children have not been considered either, and should be included in this clause.

Clause 12 lays down, as I read it, that if on the introduction of this Ordinance a particular body or person during the

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In clause 23, the question arises as to whether it would be possible under that clause for an applicant who is "aggrieved" by a decision of the licensing authority to bring an action for damages against that authority. I do not think it would be possible, but it ought to be made perfectly clear that this is not the case.

Secondly, there is the question of appeal. Normally, one likes to see appeals go to the High Court. But I am not sure on this occasion that it is very wise to let appeals under this Ordinance go to the High Court.

This is quite openly rather a far-reaching Ordinance and it gives very considerable powers to the licensing authority. This is done in the best interests of the country and done not on a basis of legal rights or of common law. For this reason I am not at all sure that it would not be wiser to provide an appeal to the Governor in Council. Indeed, I believe I am right in saying that in some Ordinances there is no appeal from the decision of the Central Committee whatever, and the only appeals from the Central Committee are from the local committee. It is not a matter I feel very strongly about one way or another, but I do think we ought seriously to consider whether that is the best way and the best authority to which to make a final appeal. I am rather inclined to feel that it should be to the Governor in Council.

These are the only remarks I wish to make on this Bill.

MR. HARVEY: Your Excellency, I must apologize for my unavoidable absence during the earlier part of the debate this morning.

As a member of the Committee of Inquiry on whose report this legislation is largely based, I would like to say how very strongly I support the principles of this Bill, though of course it may quite easily be on the cards that certain slight modifications may be necessary when the details are under consideration in select committee.

I regard this as one of the most valuable and constructive pieces of legislation which has been introduced into this Council in recent years, and I would like to challenge one or two of the rather wild statements made by the hon. gentleman who spoke first. The hon. Mr. Mangat stated firstly, or gave the Council the impression, that the hon. General Manager dominated the committee of which he was a member. I should like to say in the plainest possible terms that the hon. General Manager did not bestride that Committee like a colossus, although I, and several other members of the Committee, placed very considerable reliance on the advice given by the hon. gentleman, he having such wide experience of transport problems.

There is no doubt whatever in the minds of all reasonable people familiar with the transport problems of Kenya that the main object of this Bill is not for a moment to protect the Railways but to protect the public, who foot the bill, from uneconomic and unfair transport competition, and, what is perhaps more important, to encourage cheap and reliable transport on the roads of the Colony. A good deal has been said about the dhows. As most of them exist in the area I represent I would like to point out that this Bill merely provides for their registration. There is no suggestion in any shape or form that there should be any restriction whatever on the activities of the dhows, which—and I know the General Manager will agree with me—form a most valuable service as a feeder service to the Railways and Harbours Administration, and that being so it is highly improbable that that Administration is likely to do anything to impair their welfare. Actually this is a point of some importance, if they wished

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I agree very strongly with what the last hon. member said about clause 23, on the subject of appeals. Although as a member of the Special Committee—and I am going to anticipate the learned mover in his reply to what I am going to say—I did with some reluctance agree to the Supreme Court being referred to in this connexion, but on further consideration and after a close discussion in the Central Road Traffic Board I have completely changed my mind—and I reserve the right to change my mind whenever I wish to do so. (Laughter.) In the words of Emerson: "With consistency the great soul has simply nothing to do; he might as well concern himself with his shadow on the wall. A foolish consistency is the hobgoblin of little minds—adored by philosophers, little statesmen and divines."

Sir, I support the motion.

MR. MAXWELL: Your Excellency, I support the Bill in principle.

With regard to the board which is to be appointed, the hon. Member for Nairobi North (Major Cavendish-Bentinck) touched on most of the points which I wished to raise, but I have been asked to bring to the notice of Council the resolution passed at the last meeting of the Associated Chambers of Commerce of Eastern Africa, which reads:—

"That in the opinion of this Association it is essential that the commercial community shall be adequately represented on the proposed Transport Licensing Board."

I have no doubt that when it comes to appointing the board, Government will appreciate the advantage of having an individual on that board who has a knowledge of commercial practice throughout these territories.

Referring to the Bill, I should like to refer to clause 5 (2), which defines the A licence.

In this clause it is laid down as a condition that public carriers who take out these A licences shall not be allowed to use such authorized vehicles in connexion with any other business in which they may be interested. In this country, owing to seasonal variations of traffic, public carriers have found it necessary to keep larger fleets of vehicles than they can use in their business as public carriers throughout the year. They have therefore entered into other forms of business either for themselves or in partnership, whereby they can use the surplus vehicles throughout the year, which reduces their expenses of transport and their charges to the public.

I presume the difficulty which arises in this clause can be got over by a procedure whereby a public carrier and the various businesses, whether carried out by themselves or in partnership, can take out the necessary A, B and C licences and that all the vehicles of the fleet of a public carrier will then have to be authorized under each of these licences. It will, however, be almost impossible to tell under this procedure under what licence a vehicle is operating at any one time. It seems rather cumbersome, and it may be altered in select committee to some more simple method.

With regard to C licences, I do not find myself fully convinced of the necessity for these, since nearly everything they wish to enforce is covered under the Traffic Ordinance and other Ordinances; that is, for the protection of roads, safeguards, records, and so on. But if the select committee still feel these licences are necessary I suggest that certain clauses in the Bill might be reconsidered from the point of view as to whether they should apply to these licences. As an instance, clause 21 lays down that before granting a licence the board must adver-

should be Indian representation on this board, these very gentlemen come here and object. I suggest that, of course, they many times as they like!

are entitled to change their minds as
Before I deal with this Bill, I wish to say that I will not take up the time of Council in dealing with it clause by clause, as my hon. colleague Mr. Mangat has done justice to it, and has been to a great deal of trouble and pains to explain the Bill clause by clause, and our case could not have been in better hands. Of course, I do not agree in part with him; where he used very happy phrases and very happy language he should have come out a little more frankly!

The hon. and learned Attorney General gave us certain reasons and objects for which this Bill is being brought forward: to regulate the traffic, to co-ordinate transport services, and one object he said was to avoid cut-throat competition. If we are expected to be honest in our social life and commercial dealings, there is no harm in being honest in political life also. I suggest that if he had stated that the object of the Bill is not only to regulate traffic or co-ordination of transport services, but is to eliminate Indians from this Colony by prohibiting the motor transport from the roads where it is at present employed, it would have been honest. I would not have blamed him, because I love my enemies as much as I love my friends, for their honesty.

He also suggested that it was to protect the interests of the drivers. It is really very amusing that he should come forward here and suggest that this legislation is to protect the interests of the drivers and conductors. For the last four years from this side of the Council, we have been appealing to your Government, Sir, and your advisers to bring in at least one ordinary measure, the Workmen's Compensation Act, to protect the working class of this country, and we have not succeeded in convincing your Government of the necessity for such legislation.

Yet here we are told by the hon. and learned mover that clause 16 of this Bill and the main object of the Bill is to protect the interests of drivers and conductors as to wages and hours of work! It really seems very strange that all of a sudden he should have become absolutely a philanthropist in the interests of the poor drivers and workmen, and it takes a lot of time to digest such stuff.

He also stated that it was better to introduce this Bill now because it will not create so much hardship as it would if the measure were brought in in four or five years time, when people had by then invested a large amount of money. In this connexion, he said that similar legislation was already enacted and enforced in England. We have to compare the two countries for a moment.

There can be no comparison at all. Look at the vast country of England. Can there be any comparison? No. There are circumstances and reasons for introducing such legislation after the experience of a hundred years. On the other hand, the whole life of this Colony is only about forty years. I do not think even now you can call this a country of any standing at all. Most people I have met outside Kenya have told me this country is progressing artificially, progress and construction and building is not according to scale, but is so rapidly and artificially and done on borrowed money and borrowed capital on which heavy interest has to be paid that it cannot go on for a long time unless the country definitely becomes bankrupt one day. Here we have the examples of the last four or five years' depression, and the example of the Railway, and unless the hon. the General Manager had prohibited the prohibition of goods by motor I think the Railway would have been really

There was one thing the hon. and learned member did stress in his closing remarks about this competition. I agree with him in so far as there is competition the people who cannot stand up to it naturally and automatically go out. If people are able to stand up to the competition they always remain in the market. Under no circumstances would I suggest that it is up to Government to go about the streets of Nairobi or Kenya finding out the competition in the different classes of life. There is competition among the shopkeepers of Nairobi, there is competition in every sphere of business, and I do not think Government would be justified in bringing in any kind of legislation to avoid it. Otherwise, where is the limit, that there will not be other legislation brought before Council to remove competition from other businesses? If there is no justification for that, there is no necessity for this.

As I have said, this measure is definitely brought in as a measure to protect the Railway at the cost of the Indians and Africans. In 1934, when the carriage of goods by motor transport was prohibited, the hon. the General Manager said it was with a view to avoiding the attack on the Railway and to save the Railway revenue to the extent of £100,000; he may have suggested £75,000, but I think I am correct in £100,000. Here, after four years, he has not only saved that £100,000 at the cost of the lorry owners and drivers and those employed, but at the same time he now intends to have a very big surplus, and, not satisfied with strangling those people and removing competition, goes beyond that to suggest that we should have this Bill in order to control all traffic.

What will happen? I do not believe in prophets, but I do certainly believe that when you associate with people you can, by studying their faces and psychological effects, come to the conclusion sometimes as to what is in their minds. What is going to happen under this legislation? I want hon. members of this Council to know what is bound to happen in a year's time.

Under clause 3 (1) (a) the Attorney General would nominate the General Manager of the Railway as his substitute chairman of the licensing board. (Laughter.) As acting chairman of the board, you will see that he is rather anxious to remove competition with the railway between Mombasa and Nairobi. He would suggest no transport carrying certain classes of goods in competition with the Railway.

The hon. and learned mover also said that this Bill includes the bus services. By the end of 1935 I have reason to believe, after conversations with people in Nairobi, the Kenya Motor Bus Co. were anxious to extend their services from Nairobi to Fort Hall. That has all along been in the minds of some people. Therefore, in a couple of years' time there will be exclusive licences granted to that company to operate just for the one excuse which is provided under clause 21 (5), as to the liability, suitability, and financial stability of the company concerned.

It will be automatically granted because the company happen to be a very big concern with financial resources; an exclusive licence must be granted. And then, automatically, some 50 small bus people and drivers as well, who are earning a living and employing people as mechanics, will be wiped out absolutely. That will be the second measure which the hon. the General Manager, whose attitude at the moment—his anti-Indian attitude—is too well known to discuss here, will take.

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It will be automatically granted because the company happen to be a very big concern with financial resources; an exclusive licence must be granted. And then, automatically, some 50 small bus people and drivers as well, who are earning a living and employing people as mechanics, will be wiped out absolutely. That will be the second measure which the hon. the General Manager, whose attitude at the moment—his anti-Indian attitude—is too well known to discuss here, will take.

By the introduction and enactment of the law of prohibition of carrying goods by motor lorries he has succeeded in killing the competition between Nairobi and Mombasa. But he has been very much worried by the fact that goods are still being taken up to Lamu and conveyed from thence by lorries. What will happen? As acting chairman of the board he will state that no goods of any description shall be carried from Lamu to Meru, from Lamu to Nairobi, or any other place. When this act of kindness is done his conscience will be absolutely satisfied that he has killed competition against the Railway.

But he is still worried about one more fact, that goods are brought from Kibwezi to Nairobi and thus people are making a living out of it. He has got his eye on that also, and is very anxious to impose restrictions and kill that competition and oust these people from the market and of earning a living or existence. He does not seem to be very much worried about a couple of other districts, because he finds competition in those districts would not pay. That is a district like Machakos. If he had his way he would, like the railway companies in England, probably prefer to have his own lorries in competition with the people. Unfortunately, this Council would never sanction or agree to any such proposal of allowing the General Manager or the Railway Department to have lorries running between Thika and Nairobi and Machakos. If we were so foolish as to agree to such a suggestion by the hon. the General Manager, I am perfectly sure that he will not hesitate to have performed this act of grace in this country.

Your Excellency, I shall take a long time, if you would like to adjourn now?

HIS EXCELLENCY Taking that statement literally, I think it advisable the Council should adjourn now till 10 a.m. to-morrow!

The debate was adjourned.

ADJOURNMENT

Council adjourned till 10 a.m. on Wednesday, 10th November, 1937.

Wednesday, 10th November, 1937

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Wednesday, 10th November, 1937. His Excellency the Governor (Sir Robert Brooke-Popham, G.C.V.O., K.C.B., C.M.G., D.S.O., A.F.C.) presiding.

His Excellency opened the Council with prayer.

MINUTES

The minutes of the meeting of the 9th November, 1937, were confirmed.

TRANSPORT LICENSING BILL

SECOND READING

The debate was resumed.

MR. ISHER DASS Your Excellency, yesterday I spoke about the four acts of kindness and grace.

There is one thing more that the hon. the General Manager is worried about, which may be termed his fifth act of grace. He is rather anxious to remove by some means or other the competition carried on by motor lorry transport between Nairobi, Nakuru, Kisumu and Eldoret. He has probably been informed that there are a few individuals who have buses running between those centres, and that they are also carrying goods for reward. This is probably worrying him too much.

The sixth one is his worries about the position between Lumbwa and Kericho, Kisumu and Kisii. He is anxious to grant an exclusive licence to one party, thereby removing competition from those roads.

His last act of grace is about the dhow traffic on the lake. I would not add anything to what the hon. Member for the Coast has said.

Having completed his seven acts of grace and kindness, the hon. the General Manager would believe that he had done two things at one stroke and killed two birds with one stone (laughter): removed competition so that he can run his railway as a monopoly to his own benefit and satisfaction, and, secondly, removed the Indians and eliminated them from the industry in which they have been earning their livelihood.

My colleague, the hon. member Mr. Pandya, in his speech said he was surprised that the hon. mover had not seen fit to offer his appreciation or thanks to the hon. the General Manager for drafting this Bill. I would suggest to my colleague that though the idea is the General Manager's and he might have, according to his own memorandum, tried to have drafted the Bill, surely he had requested the hon. and learned Attorney General to do it? That is why the hon. mover finds himself in so unhappy a position in that he must admit that it is a revenue measure, and that he was asked to do this job for someone else. How, therefore, can you expect him to be in anything but an unhappy position or to give thanks or appreciation to the General Manager for his ideas?

Having said this, I do not think I should be justified in dealing with the Bill clause by clause, since my colleague Mr. Mangat has very ably put the case. If his arguments cannot convince Your Excellency and Government and the hon. mover, I think I should be wasting the time of Council by repetition. If what he has said has really convinced you, and you are willing to change your attitude in regard to Indian representation on the select committee and on the board to be appointed under clause 3, things would be different. But, from my personal experience in the past, I have come to the definite conclusion that, however small or large a matter concerning Indians may be, no arguments can convince you or your Government so far as the Indians are concerned, and that it is absolutely useless for us to hit our heads against the wall.

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The only other clause on which I shall speak is clause 3. Under sub-clause (1) (a) it is the Attorney General who is to be chairman of the board, and under (b) "four such other persons as the Governor in Council may from time to time nominate."

Past experience has shown that whenever such a board as this has been appointed, Indian interests have not been adequately, in fact not at all, represented. In spite of the fact that there are hundreds of Indians working for the Railway and using the Railway and contributing largely to the revenue of the Railway, there is not a single representative of Indian interests on the Railway Advisory Council, and whenever a suggestion has been put forward that one Indian should be appointed it has always been turned down, and always on the racial basis.

If the hon. Member for Nyanza, and the hon. Member for Trans Nzoia are so much against racialism but so sympathetic, they should never raise in this Council any question of racialism. In all sincerity and earnestness I submit they should also have long ago agreed with the Indian community that election to this Council should have been held on a common roll. The very fact of our existence in this Council is based on a most demoralized principle—

MR. HARRAGIN: Has the common roll anything to do with this Bill, Sir?

HIS EXCELLENCY: I think not.

MR. ISHER DASS: The hon. mover has just intervened. I agreed before that he is in a most unhappy position, and you are here, Sir, to see that everything is treated in a just and faithful manner. The hon. Indian members have been elected to Council by the Indian community, and therefore it is up to them to protect the interests of their constituents and the Indian community by all means, as much as the European members are here to protect the interests of the European community. That was the point I was trying to make, and there is no justification whatever for any member to raise the point whenever a suggestion of representation on any committee comes from the Indian side, that it is always raised on a racial basis, but, when it comes from the other side, it is always on an equality and that they are competent to represent the interests of all.

If you read clauses 9, 12, 16, 21 (5), what happens? This board is certainly not going to be a licensing board, but one to control all sorts of transport. It is also entitled, when it receives an application, to find out the financial stability of the applicant, in fact, I will go so far as to say, a man's character also. It is very easy for anyone, and particularly the hon. mover, to say that this Bill has nothing to do with character, but if you read the Bill you will see otherwise. But surely, if a man has purchased a motor lorry and has satisfied all the demands and requirements of the motor dealer, it means that he is a fit person to own a lorry.

The board is not only to be concerned with how a man happens to possess a lorry but his financial stability, so that it is going to be a board of morals! I will pass no comment except to say that, under the circumstances, my community I have the honour to represent cannot agree to any such suggestion to give such wide powers to the board.

I would be justified in remarking that some of the European elected members on this side of Council have gone so far as to suggest that a local body should be empowered to grant these licences, and by local body I think is meant district boards or similar bodies. If you care to know, with the exception of one or two cases, there is no Indian representative on

If public interests do not consist of three millions of natives and 40,000 Indians, I want to know exactly then what is the interests of the general public as defined by the hon. Member for Nyanza. If you want to know the truth, who are the people in this country very anxious to have this Bill enacted in the interests of the general public, it can only be found out by one means. That means is to suspend further progress with this Bill, and have an independent committee appointed representing all interests. I would go so far as to say, let the European interests be represented even if they do not own transport; the motor dealers should be represented; the commercial interests, as well as motor drivers and conductors, in whose interests you seem to have brought this Bill. Let them all be represented, and every institution, and then you will have the truth as to how many interests actually need such a Bill and what is the interests of the general public. Simply because someone, unfortunately, happened to be in Kenya twenty-five or thirty years ago is not sufficient argument that he knows more about the country than anyone else. Some know more after they have been here six months!

This measure has been deliberately brought in by the hon. the General Manager, simply with a view to removing competition so that the Railway can have a monopoly, and secondly to remove Indians from the field of competition, thereby depriving a certain number of people from earning their honest living in this country. I say that with all emphasis.

I very strongly oppose this Bill, and on behalf of my colleagues I say, Sir, with due respect to you, that we reserve the right to ourselves of opposing the Bill and taking all the measures we can against it, both in Council and outside.

ARCHDEACON BURNS: Your Excellency, I should like first of all to say that it is not true that the 3,000,000 natives in the Colony are not represented in this Council or in any measure that is brought before the Council. They are represented by two of us, and although their representatives may not be very clever on this job they have the natives' interests at heart in a very real way indeed.

First of all, I should like to say to the hon. the General Manager that I am going to give him a rest—I won't have anything to say about him because I am not forgetful or unmindful of the fact that earlier, I think it was in the last session or so, we were pressing him to return to the country in reduction of rates—something like £100,000. Well, he did that because owing to his foresight and, I think, owing to his real effort to put the Railway on a proper foundation and proper footing, he dragged it out of the confusion it was in a few years ago, and then was able to give the country the benefit of that effort. We hope that that will continue to be his policy and that when the Railway justifies it he will give the country the benefit of these surplus balances once more.

With regard to the hon. and learned mover of the Bill, I should like to say that personally I take his assurance, which was given to us as he introduced this Bill, at its face value. We have listened to the hon. the Attorney General in this Council for some time now, and I think we have all come to the conclusion that what he says he means (Hear, hear.) And therefore, in giving this Council the assurance that the Bill is not aimed at putting off the road or doing away with the present system or the present people who are engaged in transport in this Colony, but that that system or that transport requires careful organization, I am entirely in agreement with that.

On Tuesday afternoon last we had a discussion on this Bill when the need of this was brought before the Council, and

country, for the commissioners know the conditions of their districts and areas in which it is their duty to see to the welfare of all classes of the community, and they will deal fairly with all who come before them for a licence with regard to any traffic they may need.

We have been told that the Africans are altogether out of this, that the Africans have not reached the stage when they can take a very leading part in this. But they are coming up to that time, and when the time does come—whether individually or collectively—that they can drive buses or lorries and represent their case to the district commissioner or district officer, I am certain that their case will be heard and all due consideration be given to the needs of the people in the reserves.

There is one thing that I want to speak about particularly, and that is about the dhows on the lake. I am troubled, I admit, very troubled about this, and I do hope that the select committee when dealing with this thing will take into consideration the fact that at present all along the coast of the lake, both south and north from Kisumu, production is going ahead at a very rapid rate indeed. And the producers, the natives, who are bringing their produce to the various little inlets or bays where they are going to get a dhow or a canoe, these should not be interfered with. After all, the dhows are the feeders of the Kenya and Uganda Railway and in bringing their produce in this the cheapest way, as we have here given to us by Sir Osborne Mance, the natives get their produce brought at least at a very cheap rate indeed, compared with what they might have to pay otherwise. I do hope that in considering this Bill the select committee will take that into consideration and if there is an efficient service on the lake at the present time that that service will not be interfered with. Let them be controlled as far as licences are concerned; that is all to the good. But do not take them off from the work they are doing more or less efficiently at the present time.

There is one other thing I wish especially to speak about and that is that the dhow and canoe service on the lake is providing for a large number of natives a means of livelihood. We have heard here that at certain seasons the dhows are taken off for repairs, so much so that these natives are given a considerable amount of work and the *fundis* are given work in fixing up these dhows, or building new ones, or building canoes all along Lake Victoria. And to take off or interfere with this work, in my opinion, would be doing the natives all round the coast of the lake a very real hardship by taking away their livelihood. So I hope the select committee, when they are dealing with this inland water transport, will bear that in mind and that, while dealing as far as is necessary with the transport on the lake, they will bear in mind that these people have put a very great deal of money into it, and although the transport may be slow yet it is efficient as far as the natives are concerned and, as I said before, they are feeding the Kenya and Uganda Railway which brings their produce right down to the coast.

Yesterday it was mentioned, though perhaps it was only a suggestion, that perhaps we could do without the Uganda Railway altogether. Well, I do not see how we could very well. Because, although sometimes you get a shaking up in some of the carriages, I admit still that on the other hand it is preferable to be inside away from the inclemency of the weather to lying on the side of the road when a lorry or a bus breaks down, and you have to wait perhaps the whole day before it is repaired and you can go on. In this country it seems foolish to speak that way. The country cannot do without the Railway and cannot progress as it should without a railway system.

There are no other remarks I wish to make except that I think the natives' interests are being served by the board having the authority to delegate authority to the district and provincial commissioners who know the needs of the natives from that point of view, and who sympathize with their aspirations in a very real way. I think from that point of view the native interests for the time being are met and as the natives develop and are able to put buses and lorries on the road themselves, either individually or collectively, I am sure their interests will be considered and fair play given to them in this matter of transport from their reserves to whatever point they want to go.

Before I sit down there is just one point I want to make clear and urge with all seriousness. That is that the bringing in of this Bill into law will not interfere in any way or keep us from the convenience of having a through road from Mombasa right up to Nairobi and right on to Kisumu and so on to Uganda. To my mind it is rather scandalous to think that if one want to go down to the coast in order to rest—and it is becoming a resort for people regularly every year—one has to make one's way down into Tanganyika Territory to get a road so as to be able to motor down to the coast. I do hope that, even if this Bill is passed, there will be a central and good all-weather road where people can drive in comfort and ease and so reach the capital of the coast and enjoy the amenities that they can get down there.

These are all the remarks I have to make with regard to this Bill. My chief point is the dhow service on the lake, and I do urge very much that the select committee will deal sympathetically with the natives and those who are earning their livelihood in the building and repairing of the dhows and canoes all along the lake shore.

MR. BEMISTER: Your Excellency, I wish most emphatically to protest at the insulting remarks of the hon. Mr. Isher Dass in saying that I, amongst others he mentioned of the European members, do not represent any other than European interests, or voice other than European views in this Council. I take it, as an Englishman, as one of the worst insults that has been levelled at me. It is true that I am put here by the votes of the Europeans, but it is a recognized fact in Mombasa that we work together in a spirit of co-operation and state of mutual help with no sign of antagonism. In the Elected Members Organization at the coast there is no question affecting any interests which is not properly and thoroughly discussed, and every time I have spoken or wished to bring anything before the elected members I always have had a satisfactory deal.

With regard to this Bill, it has been suggested that the Railway is very deeply interested. I cannot believe such a statement, because, as you see, in our audience this morning we have several highly placed officials of the Railway, and the situation at the moment reminds me of the trial in America of a celebrated company promoter. In the papers it said that he was the least interested of anybody in the court. He did not care how the summing up went, because the jury had all been arranged for. So it cannot be said that they are really interested; they are sitting on the box seat in all cases of transport.

It has been said by the hon. Member for Nyanza that it was never intended to restrict transport by this Bill. But if you will read clause 17 (4) (b)—"a condition that the rates to be charged shall not be lower than such amount for the goods authorized to be carried as the licensing authority may consider reasonable"—I would like to ask what is to be the gauge and who is to be the arbiter of the correct rate for the goods which are to be carried?

on these grounds I do think that very careful consideration must be paid to the rates to be charged, and that these rates must be the lowest that can possibly be charged irrespective of the rates charged by the Kenya and Uganda Railway.

It has been suggested to me that if this Bill is not passed there will be no roads left in the Colony. I can hardly believe that—merely because you have people in the Colony who do not know how to make roads, for that must be the real reason. You have your Traffic Ordinance which controls the weights and speeds on the roads, and everything will work out fairly in that regard. But to deny the native the right to get the cheapest possible goods to as near his door as possible is a very serious responsibility to take on in this Council.

I would suggest that the most careful consideration be given to that one snag, that as long as natives are not penalized this Bill should have the blessing of Council, but if there is any suggestion that any native loses one cent, then I advise you, Sir, to let the select committee decide to take out the inside of this Bill and just leave the objects and reasons!

DR. DE SOUSA: Your Excellency, I am sure that hon. members of Council are sorry for the weariness that has been inflicted on you in connexion with this debate. It has been a very long one, and has brought about a conflict of ideas, perhaps the first that you have been unfortunate enough to witness.

Coming as this debate does on the top of all our general public interests, it shows, Your Excellency, to what extent these general public interests are being represented in this Council. Apart from the official members, you have heard the European elected members representing the European community, the Indian elected members representing the Indian community, all representing the immigrant races, and you have also got the nominated unofficial members representing the Africans.

If this Bill really and truly represents the general public interests, can anyone conceive, much less your own self, that there should be such a division of opinion, such a conflict of opinion, as Your Excellency has witnessed in the last three days of this debate? So it must appear to you, as it does to everybody else, that the question is not of general public interest.

Perhaps you may be annoyed, Sir, at the extreme manner in which some of us speak, but the circumstances are such that in the past, as to-day, any debate on a Bill of this nature is without a change of spirit on the part of certain members in this Council, and it has been so for many years.

I take it that most of the evils of this debate are to be traced to Your Excellency's Government long before Your Excellency took office. Government appointed a committee, and on that committee it gave representation to two official bodies in the persons of the General Manager of the Railways and the Director of Public Works. It gave representation to the unofficial European community in the person of Captain Anderson. It also gave representation to the Indian community in the person of Mr. Abdul Wahid, and it also placed on that committee two European elected members.

The very composition of this committee shows to you that the interests this committee were going to represent were not general public interests. You see there was no one, nominated or otherwise, to represent the native interests, except so far as they were represented by the official chairman, the Attorney General, the hon. mover of the motion before Council. You see that they had prepared the ground for instilling into the people not

"We realize that the general problem in Kenya is much intensified by the fact that a railway tariff policy has been adopted, in the interests of the majority, which grants very low rates to primary produce, and which, in consequence, must charge high rates on imports, which thereby become vulnerable to road competition. We feel that so long as the Colony demands a policy of this sort, special protection must be given to the Railway, and that any legislation which may be introduced as a result of the recommendations contained in this report must be capable of providing such protection."

That is what the hon. Member for

MR. HARVEY: On a point of ex-Nyanza—

planation, there is all the difference in the world between giving a justified measure of protection and establishing a complete monopoly!

DR. DE SOUSA: Then, Sir, the same thing has been maintained throughout the report of Sir Osborne Mance. This is shown on page 59, for example, and I am just pointing it out to show the consistency of the hon. Member for Nyanza, where Sir Osborne Mance says, referring to the Railway:—

"It is assumed that in principle import traffic should continue to pay high rates in order that export traffic may continue to be charged low rates. This can only happen either by monopoly or by direct Government action."

Again, on page 17, comparing the rates of the motor transport and of the Railway transport, he makes a suggestion:—

"41. It is important therefore to reduce the above disparity by reducing the higher class rates to a figure more comparable with road transport charges."

We have evidence in the report signed by the hon. Member for Nyanza and almost all through the report of Sir Osborne Mance, that the rating policy of the Railway has been encouraged and sanctioned for one particular purpose; that is, to allow producers in this country to export their produce at what is sometimes one-twentieth of what it costs the Railway to transport. Several members say that these export rates on the Railway affect the native as well as European enterprise in agriculture.

When these rates were imposed, and the Railway made to serve more the interests of agriculture than of the general population, there was no such thing as export of native produce. If there was, it was an infinitesimal amount compared to the export of the produce of European agriculture.

Now, again, I am trying to prove to Your Excellency that what is called the general public interest becomes really to the interest of a section of the community and the debate on this Bill is because of this fundamental fact: that nothing in this Colony can be brought about unless and until it is a sectional interest. I will not call it racial, because that phrase seems to be a red rag to several members, but I say it is sectional interest. And when you consider those interests have been almost antagonistic to the commercial interests, to the transport interests, and to the consuming interests to a great extent you know that this Bill is not in the general public interest.

A few hon. members have referred to the advisability of importing experts from abroad to advise us on our own problems, and if I am not mistaken one member disagreed because "we are the people here and have got more experience". If that is true, if local people have got more experience than the imported experts, then the local experts are better than the imported ones, and I greatly

The hon. and learned mover said that this Bill is on the lines of the English Act. My hon. and learned friend Mr. Mangat proved yesterday that the Bill is not in essence in any way related to the law of England. The late Director of Public Works has this to say in this connexion:—

"In my view it is improper to endeavour to draw a comparison between the requirements for the licensing and control of public service and goods-carrying vehicles in this Colony and those for advanced states such as England, South Africa, etc."

The fact is that we have not got in Kenya a uniform public interest. The case in England is that the population is one, the Government of the country is one. Here, we are all different. The only common tie that does exist among us is the tie of British citizenship, and nothing more. We are all different, even as between immigrant races, and yet it is the contention of the hon. mover that this is all right.

There has been another charge made against the people engaged in transport. It has been said that they are cutting their own throats. It has been said that this is throat-cutting competition. I do not see what anyone has got to do with throat-cutting competition provided the laws of the country are not violated. I do not see any reason, because after all it is held in many quarters that competition all over the world promotes good healthy trade and that monopolies do not, that they are an immoral thing, unless of course it is the law for one section of the community as we have it in Kenya, and when it gets into their hands it acts exactly as if it were a dictatorship.

It has been held that competition is bad. The late Director of Public Works maintained otherwise, and proved to you in his minority report that he welcomed competition. He said that his cost of running motor transport for that particular year, 1935, was 48 cents per ton mile, and when he had to give a contract it was Sh 1/50. He said:—

"In my view the only object required to be achieved in this Colony at present, and for many years to come, is the control of vehicles carrying goods for hire or reward along routes where serious competition with the Railway occurs." (There again we get our hon. friend the General Manager.) "That necessity is only of importance on account of the use of the Railway as a means for subsidizing the export of country produce. If that circumstance did not exist no control of vehicles carrying goods for hire or reward on those routes would be necessary at all."

In connexion with competition he says it was necessary for him to get contracts for transport because it was essential that he should get at times the assistance of private transport agencies.

Another contention is that motor transport should be controlled because of damage done to the roads and the enormous expenditure that is involved in keeping up the roads. The late Director of Public Works was definitely of the opinion that more damage is done to the roads of the Colony by fast cars. I will read what he says:—

"The major damage during dry weather is caused by excessive speed of all vehicles, especially privately owned vehicles."

That is directly against the contention that lorries are mainly responsible for the damage done to the roads.

Again, the Director of Public Works, in the concluding paragraph of his minority report, says:—

"9. For the above reasons I am in disagreement with the majority of the Committee regarding the necessity for the

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"In my view the only object required to be achieved in this Colony at present, and for many years to come, is the control of vehicles carrying goods for hire or reward along routes where serious competition with the Railway occurs." (There again we get our hon. friend the General Manager.) "That necessity is only of importance on account of the use of the Railway as a means for subsidizing the export of country produce. If that circumstance did not exist no control of vehicles carrying goods for hire or reward on those routes would be necessary at all."

In connexion with competition he says it was necessary for him to get contracts for transport because it was essential that he should get at times the assistance of private transport agencies.

Another contention is that motor transport should be controlled because of damage done to the roads and the enormous expenditure that is involved in keeping up the roads. The late Director of Public Works was definitely of the opinion that more damage is done to the roads of the Colony by fast cars. I will read what he says:—

"The major damage during dry weather is caused by excessive speed of all vehicles, especially privately owned vehicles."

That is directly against the contention that lorries are mainly responsible for the damage done to the roads.

Again, the Director of Public Works, in the concluding paragraph of his minority report, says:—

"9. For the above reasons I am in disagreement with the majority of the Committee..."

I have nothing further to say, except at the request of the hon. Indian member Mr. Mangat to make it clear that in his references to appeals being made to the Supreme Court—I feel sure I am interpreting his views correctly—in order to obviate objections that would arise if appeals were made to that Court, they should be made to an independent body and not to the Governor in Council.

I have only one other point. The hon. and venerable member (Archdeacon Burns) seemed very distressed by the way lorries run in the district. I expect that he, like myself, is a very loyal citizen who abides by the law of the country which provides that any menace to life and property should be notified to the authorities concerned. I do hope he has done that, because when I brought up the question of lepers being abroad in the streets of Nairobi I was reminded that my duty as a citizen was to report it to the local authorities. I do hope he has fulfilled that obligation as a loyal citizen of Kenya!

About his compliment to the hon. the General Manager, I would join him if I had not certain conscientious scruples about the giving of £100,000 baksheesh to the country out of the profits made by the Railway. I think that sum represents the savings made by the Ordinance prohibiting the carriage of goods by motor, and also represents hardships to hundreds of men, women and children thrown out of business.

If the reverend gentleman really would congratulate him, I think we have reached the limit.

However, I have put my views before Council, and I am the last one on this side to speak. It may be that I have said things that may not be pleasant to Your Excellency and your advisers on your right, but I have endeavoured to do my duty, and I do hope you will seriously consider the implications of forcing this legislation down our throats against our will!

*Council adjourned for the usual interval.
On resuming:*

COL. FITZGERALD: After having heard those long and very interesting speeches given by the hon. Indian members, it will now be realized that the Indian and native interests in this Bill are one and the same. As these members have brought out very forcibly most of the points if not all the points in this Bill, it is not necessary for me to prolong the agony of this discussion any longer. It would appear from what they have said that the whole of the transport in the Colony, bar the Railway, is to be completely washed out, which, of course, is absurd and ridiculous.

There are, in this Bill, one or two clauses which appear to me to be somewhat vague, but I have no doubt that these will be thoroughly discussed and considered when this Bill goes to the select committee.

For instance, in clause 14, under that clause it prescribes that Jerogi wa Kamau or possibly an Indian proprietor may be running a fleet of buses on routes throughout the Colony, say between Nairobi and Thika, or between Nairobi and Machakos, and routes of that sort, so that when the Bill becomes law these people will want to take out licences to continue running their transport on these particular routes. We have then this wonderful new Kenya Bus Company coming along with their very fine up-to-date buses who wish to compete on those routes with the natives and the Indians. I contend that everybody will be very favourably impressed with this new kind of transport and it seems to me that the bus company, under these circumstances, will win every time. If that is the case, it appears to me, as the hon. Member for the Coast said in his speech yesterday, that there is likely to be formed a monopoly, and this

GENERAL MANAGER, K.U.R. & H. (SIR GODFREY RHODES): Your Excellency, it is, I think, probably unnecessary for me to say that I am going to support this motion. I do so partly because I hold the position of General Manager of the Railway belonging to this country, but I do so more particularly, I think, because as a student of transportation matters for the past thirty years I am interested in what I call organized transport, and I feel that this young country, this developing country, needs organized transport probably more than any other advantage at the present time.

In your opening address, Sir, you spoke of the need for consolidation and laying sure foundations for the future prosperity. Well, Sir, I regard a sound transport organization in this country as one of the first essentials to enable such a policy to be carried out. I may be biased in that direction, because I happen to belong to what is called an organized form of transport.

I think, if I may just refer to that for a moment and to what would happen if such form of transport was not organized, it would bring home the particular lesson I would like to emphasize this morning.

What would happen if I allowed my Chief Mechanical Engineer to import a locomotive which was far too heavy for the permanent way? That locomotive would career down the line, break up the rails, culverts, and so on, and do a tremendous amount of damage. That is quite an easy instance to understand. What would happen also if I allowed my Superintendent of the Line to run trains wherever he wished regardless of whether the traffic was there, to any spot he liked? There would be people killed in collisions, derailments, and accidents, and so on. Again, what would happen if he were allowed to change his rates, his charges, from day to day, and to quote just exactly what he liked to quote to any particular person who came along? That of course would lead to chaos in the Railway at once.

That, I suggest, is what is actually happening in other forms of transport in other countries, and what is actually happening in these territories. We have found that chaos took place in Uganda, and they have had to deal with it already by means of a special Bill. We have found the same type of controversy arising in Tanganyika, and they also have introduced a Bill to deal with the problem. We, I suggest, are finding the same problem in this country.

So that I speak more as a supporter of sound, efficient, organized transport in connexion with this particular Bill rather than, perhaps, as a General Manager of one form of transport.

But as I have been accused of putting this legislation up to Government, and as I have been accused of being the villain of the piece, it is necessary for me perhaps to say something about the Railway point of view as well.

First of all, in regard to the drafting of the original Bill. It is natural, as one of your transport advisers, Sir, and having a staff trained in this particular matter, for me to be asked to put up draft legislation that might be suitable for this particular purpose. In doing that, we searched the legislation of many other countries, and it will perhaps surprise the hon. member Mr. Pandya if I tell him that one of the most important pieces of legislation from which we got a great deal of help—because it happened to be the latest one—was one introduced into a neighbouring territory, Nyasaland. It is all the more interesting that that particular legislation was introduced by no less a transport authority than the chairman of the Kenya committee and the hon. mover of this motion before Council!

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At the present moment, the only case I can think of where we should come before such a board for absolute protection would be in connexion with the movement of goods between the coast and Nairobi and Nakuru, where, as hon. members know, we have complete protection at the moment, and we would expect, for the present at any rate, that board to recognize the justice of our case there and that it was in the public interest to give us protection.

But there are very few other places where we would ever come forward with such a suggestion for protection. In fact, I believe that once the Bill is law most of the opposition to the applications for licences will come from the transport side itself, the road transport section, and that will be because people already established and who have already got licences will put forward cases to show that there is insufficient traffic for other people to come in. If they can prove their case before the board they will probably get the protection they require.

The point I want to make at the moment is that the road transport interests themselves will make the fullest use of this Bill and not the Railway.

Sir Osborne Mance, in referring to this question, drew attention to the fact that the Railway should also endeavour to bring down its high rates to make it less vulnerable than in the past. Hon. members know what has been done. That has been our stated policy for many years.

We have always complained about this unbalanced tariff and looked for the time when we hoped to be able to get rid of it, either through increasing prosperity, and so being able to reduce the top rates, or, if forced to do so, by raising the lower rates. We do not like the latter alternative, and by giving us protection at the time you did we were able to avoid that particular calamity.

But during the past two or three years we have been able to appreciably reduce our top rates. One hon. member spoke of £100,000. Actually, in the last two years, no less a sum than £400,000 has been devoted to rates reductions, a great part of which has been devoted to reducing top rates. Last year Class I disappeared altogether. We are now actually at the present moment considering what we shall do for next year, and while it is premature for me to say what the Railway Advisory Council will finally decide, I can assure this Council that in all intents and purposes we have carried out the Mance recommendations.

But that is not the whole point. He quite clearly states in his report, and recommends even when that is done, that some form of control of transport generally is still necessary in the interests of transport itself. That is, I think, very fully demonstrated in his report, and that is one of the reasons why I am such a strong supporter of the Bill before Council.

One of the main criticisms regarding this Bill has been in connexion with dhow transport. It has been assumed that the Railway on the passing of the Bill are going to object to every application that a dhow owner may put in for a licence.

What are the facts? In every public utterance on the subject I have stated that we regard the dhow transport on the lake as a feeder service. We consider them as helpful to the development of the country surrounding the lake, and therefore helpful to the transport organization of the Railway and therefore to be encouraged in every way in their legitimate competition.

I have said that over and over again, and dhow owners know it, and I believe the hon. Indian members know it too. So that even when this Bill comes into law

On this point, however, I must add one other piece of information, and it is this. Owing to the fact that we have not been able to introduce our low rates in connexion with transport to Tanganyika lake ports, Tanganyika Government have asked us to retain our old rates. That at once makes it possible for dhows operating from Kenya ports to Tanganyika ports to take transport they would never have taken in any other circumstances down to those Tanganyika ports. In other words, it enables the dhows to undermine or even to nullify completely the policy the Tanganyika Government wishes to carry out.

Tanganyika Government have just passed a Bill similar to the one before this Council, and I have every reason to think that an application for a licence from a dhow owner to run traffic from, say, the Kisumu port to a Tanganyika port—to take advantage, in other words, of the particular tariff position—will be resisted by the Tanganyika railway system. That is a question which does not concern this country or this Administration to any great extent. The opposition to these licences will come from Tanganyika. I thought I had better make that point clear so that the position would be understood.

With regard to other applications for licences, it has been suggested that the Railway might oppose the grant of a licence for a passenger service between Nairobi, Nakuru or Kisumu, and so on. We have always taken the line that we are not suitable for passenger transport; we cannot run at high speeds, for reasons quit beyond our control. Therefore we shall be the last people in the world to oppose any form of passenger transport that would serve a useful purpose; that is, the purpose of the public interest. (MR. SHAMSUD-DEEN: Nairobi to Mombasa?) The same thing applies.

We have no reason to suggest opposition from our point of view to a passenger service because we realize that to a very great extent indeed we cannot provide such a service. In fact, I will go so far as to say—and I have said it at great length in my annual reports—that if responsible organizations were prepared to undertake that type of work we ourselves might be prepared to join with them in doing so. At any rate, we should be glad to co-operate and co-ordinate our services with them.

That point was clearly made in the Kenya committee report, because on page 16 we say, regarding the building of roads, which is the particular point, because such a road is necessary first of all before any service to Mombasa could be introduced, as follows:—

“Provided suitable legislation, such as that now proposed, is enacted we urge Government to consider at an early date the possibility of allocating additional funds for the purpose of improving roads wherever the public interest justifies improved means of communication.”

What more can we say that that?

As far as I can see from the trend of this debate regarding this motion, the whole opposition has been concentrated on the point that the Railway itself might prevent any other form of transport arising. I have pointed out that it is your Railway, your revenue that we are thinking about, but from my point of view I can see no way at all in which the position of the country as regards transport can be interfered with owing to the fact that the Railway, before it can oppose the grant of any licence, must make itself heard before the board which is going to judge the cases in the public interest. I can see no reason for any objection to this legislation if it is fully realized it is designed to meet public in-

Therefore, I very strongly indeed support this motion.

LORD FRANCIS SCOTT. Sir, I am afraid the debate has gone on a very long time, and I shall not delay it unnecessarily. I rise to support the motion before the Council.

I do so because from practical experience anybody who travels round the country and who takes an interest in transport matters realizes that some such method of control is absolutely essential. The hon. the Indian members have made their position quite clear, and I have no reason to quarrel with the line they have taken up; the line is that they do not want this Bill at all. And if they cannot get rid of the Bill they would like it to be emasculated, and if they cannot do that then they would like to have a committee of advocates on the board to see that it was made null and void. That is a perfectly legitimate attitude from their point of view.

I do wish to say that the hon. and gallant member the General Manager represents exactly my views as to the composition of the board, and I entirely disagree with those members who advocate sectional interests. We do not want a board that advocates sectional interests; we want it to be composed of five wise men with practical experience and a just and fair outlook, and to consider all the applications that come before them in a fair and impartial manner. It has nothing to do with the matter whether these gentlemen happen to be Indians or not; that is not the point. The point is that they should be disinterested people.

I have been amused in the course of the debate to hear the wild accusations which have been levelled at the head of my hon. and gallant friend opposite. I never realized before, though I have known him for a great many years, and for six years as a member of the Railway Council, that Machiavelli was not in it with him in his nefarious methods of achieving his particular end! (Laughter.) This incident shows, I think, pretty clearly the unsoundness of the attacks that have been made. For over six years I have been a member of the Railway Council, and in that capacity one realizes that it is essential that the Railway should have a certain amount of protection against what we call uneconomic competition.

No one as strong as I against any idea that the Railway should have a monopoly and the control of the transport in the country. I think I may say that such an idea never entered the head of anybody on the Railway Council or of the General Manager, and to insinuate that that is the object of this Bill is wrong in every way. As I see it, the Bill takes away a great deal of the control vested in the Railway, and the whole object of the Bill is that there should be a sound and sensible control of the transport services of the country, and to protect the roads of the country from being needlessly knocked about, which must entail an enormous increase in expenditure on them. I maintain, as I said before, but which has been disputed by the hon. the Indian members, that this Bill is framed entirely in the best interests of the general public and the country itself in general.

Sir, I support the motion.

MR. HARRAGIN: I must confess that it is not often that I am taken entirely by surprise in this Council, but on this occasion I have been amazed at the attack that has been made upon this innocent-looking Bill. When I returned from leave to find that it was my duty to introduce it, I thought I was introducing rather a dull Bill, but at least one which had been investigated by anybody and everybody that knew anything about the subject at all, and a Bill about which the public had had every opportunity of putting forward their views.

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"I agree with provision being made for A and B licences, but only in so far as certain scheduled routes, which would ordinarily be those parallel to the Railway, are concerned."

"9. I am in disagreement with the majority of the Committee regarding the necessity for the Bill as drafted. At a time when the Colony cannot afford to provide adequate funds for many essential services it is, in my opinion, improper to enact an Ordinance which, as far as many of its provisions are concerned, is quite unnecessary, and would cause expense to the administration."

So that we have Mr. Sikes agreeing: (a) that there should be control; (b) that there should be control by certain licences, A and B licences; and (c) that the control should be used in such a way as to protect the Railway. I think I am being quite fair in my reply in saying that the only objection to this Bill taken by the hon. members is that it was supposed to be a Bill prepared by the Railway for the Railway. Though we find we have Mr. Sikes agreeing that the Railway is entitled to some protection, it is quite obvious when reading the whole report that he felt that he could spend the money or the larger share of it far better himself. He did not think that we were entitled to spend the money then—and I may mention that the Bill has been simplified considerably since he wrote that report—and that the money could be better spent by putting metal on the roads.

What are the advantages of this Bill? This Bill provides, it is true, for the whole Colony, but if you look at clause 1 you will see that it can be brought into force in such areas as the Governor in Council may decide, so that it is quite possible to bring in this Bill as it stands piecemeal and meet the objections of the late Director of Public Works.

The only point on which he disagreed, and a point which we will consider in the select committee, is in regard to C licences.

Of course, the chief trouble about replying to a debate like this is that I believe the opposition has deliberately misunderstood the meaning of the word "control". If you take the word control to mean extinction, naturally there is every reason for opposition, but if you take the word control to mean exactly what it does mean, it is that lorries as well as inland water transport will be under some proper form of regulation. We are then told that it seems all control and no co-ordination. You cannot put details of co-ordination into the Bill itself; co-ordination is supposed to be done by the board set up under the Bill to do it.

I think I should make one point clear regarding the drafting of the Bill. The hon. the General Manager mentioned that I introduced a similar Bill in Nyasaland. Just before its introduction I was transferred to act as judge, so that I knew all about its preparation beforehand, and to that extent he is perfectly correct.

The next point made was with regard to dhows. My hon. friend the General Manager has already explained the position, and if as practical men you realize what is going to happen you will know that not a single dhow which is running at the present moment on the lake will be put off. It is necessary to control where they go and what they carry, but it certainly is not the intention to extinguish the principal feeder services of the Railway in that particular district.

There was a point made with regard to public interest. I will be perfectly frank with hon. members here: that it has always been the policy of Government,

A small point was made, under clause 16, with regard to details about employment of loaders and ticket-collectors and so on. It is true that it is not, perhaps, usual to apply piecemeal legislation of this sort, but if hon. members will refer to various Bills that have been passed in this Council in the last year or two they will find many instances where we have seized the opportunity of obtaining some sort of control over these employed servants. For instance, take the Shop Hours Act; that is one example which has been passed in the last six months.

MR. ISHER DASS On a point of information, after four years that Ordinance is not yet in force in Mombasa!

MR. HARRAGIN I have no doubt that if the hon. member makes suitable representations it will be done, if he can prove it to be necessary in Mombasa.

At any rate, the fact remains. Personally, I have no strong views, and if the select committee think these people could be omitted from the Bill there is no real reason why they should not be. Personally, I should like to see it remain in.

The hon. member Mr. Mangat, who had obviously made a very thorough examination of the Bill, made some very interesting comments at the outset. His main argument was that because the standard of intelligence in this country was lower than in England and other countries which had similar Bills, therefore this Bill should not be introduced. Surely, that is one of the main planks in my platform: the more uncivilized a country, the more control is necessary to get it on proper lines.

He next complained, and rightly on this occasion, that there were so few traffic convictions last year. I join in deprecating that fact, and hope this year, if we can increase the police force, there will be very many more convictions, because I entirely agree with what hon. members stated, that on our roads to-day there are many cars, lorries and buses which are an absolute menace.

I was then taken to task because the Bill was not on the exact lines of the Bill at home. Well, I admit that on one or two occasions we have deviated from the exact wording but if in select committee it is thought that the English wording is better I shall be quite prepared to put it in, and I am prepared to give him examples later on of the difference between here and in England.

If I may sum up the whole of the hon. and learned member's argument, it came at the end of his speech, when it appeared to me that he had no objection to the Bill if he was certain he had what he thought proper representation therein. The moment he said that he delivered himself into my hands. There is nothing wrong with the Bill at all; it is all right; provided we accept the people whom the hon. member considers the proper representatives then the Bill may be allowed to go forward.

I should like to say a word with regard to this proper representation.

Nothing has been said by Government to lead anyone to believe there will not be proper representation. We have not left in any way the recommendation of Sir Osborne Mance when he suggested there should be one legal member and four other members whom he proceeded to say should represent W, X, Y and Z. There is no one in this Council, not even you, Sir, who has come to a conclusion yet as to who will be the most suitable people on that board, and I do suggest that the time to complain and, if you like, to condemn this control, will be when the hon. member hears who that board is. If the board has not his confidence, no doubt he will be able to move the necessary motion in Council to have it put right.

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There was a point made that in England licences were issued for one, two or three years. That is true, but in the books that we have in the office on this subject, and which I am quite prepared to show the hon. member, it is made perfectly clear that this is found very irksome and difficult, and no one knows when a licence comes to an end. It might be better therefore if licences ran from year to year. I think he will agree that that is largely a matter of detail, and it will be quite easy in select committee to alter a detail of that description.

The hon. member went on criticizing the Bill, having made up his mind that nothing in the Bill was right, and there is nothing easier. All know that when one is briefed in a case you find fault with every sentence said by the other side. For instance, he objects to getting the written consent of the board for a transfer. When you consider that one of the principal objects of the board is to control not only the vehicles but the class of man, having regard to his financial status, who would run a fleet of vehicles, it would be perfectly ridiculous that X, a highly respected and reputable person, should be able to walk before any board, get a licence, and walk out, and transfer it to a man of straw without so much as letting the board know about it. Quite rightly, we say that before a transfer is made he must get the written consent of the board.

Exception is then taken to clause 19, which deals with exclusive licences. We all know that when dealing with exclusive licences we are dealing with a dangerous subject, and for a long time it would have been impossible to introduce such a thing into a Bill of this nature. But a few years ago it was realized that unless something of this description, with the safeguards I suggest are to be found in the Bill, was introduced into this country—and other countries, incidentally—progress would be retarded.

You may wonder what I mean by that, and it will be better if I give you a simple example. It is purely imaginary, and refers to nothing which has happened in Kenya at the moment.

Let us assume it is considered necessary to run a bus service from here to Limuru, that there was none in existence.

A company comes along and says that everybody in Limuru is screaming out for a bus service, but the moment they provided it half a dozen others would come into the field and the first company would be frozen out. They are not prepared to put up the money unless assured of an exclusive licence for a time. Surely, every reasonable person in Council will agree that in the public interest an exclusive licence could be granted to such a company.

I know perfectly well it is a provision which can be abused, of that there is not the slightest doubt. It gives very wide powers to the board, and so all we can do about it is to give the right of appeal to the Governor in Council, who will have all the argument on the other side and will be able to give a wise decision on it. I think it would be most unfortunate if we had to take it out of the Bill.

The next criticism was with regard to the conditions in clause 11, which were said to be too wide. I would merely refer the hon. member to clause 17 (2), which restricts the conditions the board can impose on applicants. I have no objection to the suggestion made by the hon. member regarding the board stating reasons when a licence is refused, because in practice that will always be done, as how on earth could a judge or whoever heard the appeal come to any decision if he did not know the reasons which guided the board in their decision? I have no objection whatever in the committee stage to inserting that provision.

I am also asked why it is necessary to

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I think the whole case of the hon. member falls to the ground with what I took to be almost his concluding words: that he did not consider the Railway essential to the country. If our views are so divergent as that, I think I shall be wasting the time of Council to answer any more of his arguments.

With regard to the point that people were going to stop importing vehicles, I think I mentioned in my opening speech that, as far as one could see, every vehicle in operation for twelve months would continue to be in operation after this Bill had come into force. The only vehicles that will not, will presumably be those not fit for the road, and I suggest that as they have to be replaced it is probably an intelligent anticipation that even more lorries will be imported after the coming into force of the Bill than before.

The hon. Member for Ukamba (Sir Robert Shaw) wishes to give a local authority the right to object. I see no serious reason to oppose that; it will be more a nuisance to them than to the board, but I am sure there can be no valid reason why they should not appear if they have the interest of the district at heart.

With regard to appeals, we shall have to go into that question very carefully in select committee. I have touched on the subject already. I had originally suggested and had managed to persuade the committee that for various reasons it was better that an appeal should go to the Supreme Court. If, however, the majority of Council are in favour of going to the Governor in Council, I see no reason why we should not make that alteration.

I would like to associate myself with the hon. the General Manager when I say that under no circumstances would I agree that he should be a member of this board. I feel that the hon. member who made the suggestion will realize on reflection that it would be impossible to have one, who will presumably object to a great number of applications, sitting and hearing his own objections. I may say that that has been the view of the hon. the General Manager from the beginning.

It is suggested that there is no need for water control, but I suggest that there is, just as much as with any other type of transport, with the difference that you do not actually have roads torn up by ships, but the question of the co-ordination of transport remains exactly the same.

The hon. Member for the Coast (Major Grogan) can rest assured that no treaties are going to be broken by the introduction of this Ordinance.

The hon. member Mr. Shamsud-Deen is of the opinion that this is going to give the Railway a monopoly. As regards certain roads in this Colony, as you know it already has a monopoly, and it is a question for serious consideration as to whether we would prefer to have the existing Ordinance, possibly with extensions, totally prohibiting all forms of transport in competition with the Railway along roads, or one which might permit under certain circumstances lorries or buses to be run in the manner you have heard from the hon. the General Manager. I can only repeat what was said by him this morning, that as far as he is concerned passenger transportation between here and Mombasa is not objected to by him in any way whatever, so that that, I suggest, may be a very big gain for the travelling members of the community.

It has been suggested that in the Bill it should be laid down exactly who should have representation on the board. I have no more to say than I said earlier, namely that it will be the duty of the Governor in Council to place on that board four persons most suited to serve, without any regard to colour, race or creed.

MR. SHAMSUD-DEEN: On a point of explanation, I tried to make it clear

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MR. SHAMSUD-DEEN: On a point of explanation, I tried to make it clear that no racial question was involved. All we ask is that on the board are representatives of the people who are engaged in that trade, including natives and Indians. We never said on a racial basis at all.

MR. HARRAGIN: I expect that I shall be told that no racial matters were referred to at all in this debate. I certainly understood that if the board was going to consist of Indians alone no objection would be raised to the board coming into existence.

A point of minor importance is with regard to delegation by the board. I agree that we might have to tighten that up a little if hon. members think it is too wide, but that there must be some form of delegation I am certain is correct. You cannot have a board going all over the country perhaps to hear one application, and it is quite possible when the board has made its rules and has been running a short time to direct provincial commissioners or district commissioners as to the manner in which licences may be issued. You may be sure that when we give that power it will be subject to confirmation by the board.

Some question has been raised as to whether C licences are necessary at all. If we are going to control transport, and as C licences will, I suppose, consist of 90 per cent of the lorries on the road, I think it stands to reason that we must have some control over them. I will be perfectly frank with you here. Why we have inserted that there shall be conditions attached to the C licences is that if a man, under the guise of a C licence, is competing unfairly with the Railway or other licensees, it may be necessary to insert some condition in the licence which would prevent it going on in the future.

It has also been suggested that it might be possible to amalgamate A and B licences. That, I will admit, has been done in Tanganyika. But, for reasons we will go into in detail in select committee, as a matter of practical politics it is unwise. As I visualize A and B licences they are: A licences for general haulage—I do not know how many there will be, but let us say ten altogether—who will have the right of plying for hire in all parts of the

country. And take B licences, which is a restricted form of licence made for a man doing his own job of work with his lorry. As a typical example, a man bringing goods in from Kiambu to Nairobi applies for a B licence to be able to take goods back for hire and reward from Nairobi to Kiambu. There you know what exactly to permit on the roads on which he expects to travel, but if you just give one licence entitling him to travel all over the country you will have no control and it will be quite impossible to co-ordinate transport, which is the board's duty.

I do not think, really, that the hon. Member for Nairobi North (Major Cavendish-Bentinck) has much difficulty in knowing what the word "aggrieved" means, and I can only tell him it means exactly what it says in the dictionary and that there is nothing peculiar in having this word in this particular Ordinance. If we said, as an interpretation of the word "aggrieved", "A person who has had his application for a licence refused," it would limit it to actual refusal, but by the word aggrieved, if the board grant a licence and there was an unfair condition attached to it, the person would be aggrieved by that condition and be able to appeal under the clause as it stands. That is the real reason why that rather nebulous term is used.

The hon. member Mr. Isher Dass was opposed to the Bill, as far as I could make out, because he was opposed to the Railway. He had a great deal to say about honesty, and that it would be well if I put all my cards on the table, and he referred to the General Manager as honourable very often and proceeded to prove to us conclusively that he was anything but honorable! Be that as it may, I can assure the hon. member of this: that if he imagines that the Attorney General of this Colony, after a year or two I think he said, would calmly hand over his duties, presumably for a price, to the General Manager of the Railway to perform, he is making a great mistake. I can well understand that he should picture that would happen, but I assure him there is no likelihood whatever.

I regret very much the attitude taken up by the hon. Indian members with regard to serving on the select committee. It is not clear to me exactly why this Bill should be different from any other that has been before the Council in the last four or five years. I can assure the hon. member Mr. Isher Dass that if an Indian member had served on the committee, as he well knows, any suggestions he had to make regarding amendments would have been most carefully considered and, if rejected, would have been rejected for reasons which would have been given him at the time.

It makes the task of the committee more difficult in not having an Indian representative, for the simple reason that we shall have to try and remember various points made in the lengthy speeches we have listened to during the debate.

I must thank the hon. and reverend gentleman (Archdeacon Burns) for his kind remarks with regard to myself, which I feel are quite undeserved; but I would like to assure him on one point, that he is quite wrong if he imagines the board is going to insist on buses stopping only four miles. I do not know exactly the distance will be, but the whole object of that clause is to see that buses stop at proper places and not at any place causing congestion of the traffic or being a danger to incoming or outgoing traffic.

The hon. and gallant member representing native interests (Col. FitzGerald) seems worried about the new buses turning out the old. I think the example he gave was a perfectly good bus service being carried on by a native or Indian, and some up-to-date transportation com-

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Clause 4 (6) (f) was purposely put in to meet such a case as the hon. Member for Nairobi North quite rightly put forward, when we say that the Governor in Council shall have the power of general exemption, for it is quite impossible in an Ordinance to put down every single possible vehicle to be exempted, and so we have this general power.

I have dealt very cursorily, for it is getting late, with all the specific points made on this Bill. If you then come to the general principles, and hon. Indian members allow themselves for one moment to eliminate from their minds the word "racial", I think they will find very little wrong with the Bill at all. From my point of view there is nothing racial in it. There is also another thing, to eliminate from their minds that the board is going to be composed of numskulls and cranks. If you presume that, it is a very dangerous Bill to enact—

MR. ISHER DASS: No Indians.

MR. HARRAGIN: I have already dealt with the point about the dhows, which occupied a great deal of time, and I assure hon. members once more that I do not believe that a single dhow will be prejudicially affected.

Opportunity has been taken to make a violent attack on the Railway, and the General Manager is well able to look after himself. I shall certainly not take on myself that task, but merely repeat that, although at present I am not a member of the Railway Council and have no control over the Railway, I think in my new capacity of chairman of the board it will come within the ambit of my authority more than the hon. member thinks.

I do trust, now that these details have been explained, people will realize there is not the slightest effort made in this Bill to oust anyone making an honest living in this country out of transport work, and the Bill should be given a fair and just trial without having recourse to bringing in entirely extraneous matters such as racial trouble and hatred of the Railway, which have nothing to do with the Bill before us.

The question that the Bill be read a second time was put and carried by 29 votes to 5.

Ayes.—Messrs. Bale, Bemister, Boulderson, Archdeacon Burns, Major Cavendish-Bentinck, Mr. Daubney Col. Fitz-Gerald, Messrs. Gardner, Harrigan, Harvey, Hayes-Sadler, Hebden, Hoey, Hodge, Hosking, Col. Kirkwood, Messrs. La Fontaine, Logan, Maxwell, Morris, Dr. Paterson, Mr. Pilling, Sir G. D. Rhodes, Lord Francis Scott, Sir R. Shaw, Messrs. Stooke, Walmsley, Willan, Wolfe.

Noes.—Messrs. Isher Dass, Mangat, Pandya, Shamsud-Deen, Dr. de Sousa.

MR. HARRAGIN moved that the Bill be referred to a select committee consisting of—

Mr. Harragin (Chairman),
Mr. Hosking,
Mr. Walmsley,
Mr. S. H. Fazan,
Major Cavendish-Bentinck,
Mr. Harvey,
Sir Robert Shaw,
Archdeacon Burns.

MR. WILKINS seconded.

addition of the
MR HARRAGIN : Yr Xely, I beg to move the ~~third-reading~~
with the report
of the Transport Licensing Bill. Those members who read
the Committee Report will realise that we have made no
drastic ~~amendments~~ amendments in the Bill which was originally
submitted to the Council and adopted at the second reading.
But we have endeavoured where possible to meet some of
the many objections that were raised in the course of the
second reading without in any way departing from the
original Bill.

The first small amendment is with regard to the
definition of the word "ship", and this was done in order
to conform with the regulations in Uganda. It seems
very undesirable that we should be licensing ships in
Kisumu which would not be considered as ships when they
reached the Uganda border. Another rather more important
amendment was by making provision for the public service
vehicle. As the Bill was originally laid it only dealt
with two types of vehicle really, the lorry and the bus.
But in this country as hon. members are well aware we
have a sort of hybrid which carries passengers underneath
and goods up above, and therefore we have made provision
for the licensing of that type of vehicle.

Clause 3 ^{has} merely been clarified. It sets out
when members of the Board can be removed, in cases of
bankruptcy and so on, and how long that period of service
will be, namely three years. And lastly the usual
indemnity clause, indemnifying them against any action
there is taken in conformity with their duty under the
Ordinance.

Clause 5 is a goodwill clause which makes provision
for the vehicles already mentioned merely to be public
service vehicles. And in Clause 6 we have endeavoured
to meet the difficulty pointed out by the Hon. Member for
Mairobi South. As the Bill was originally drafted it
was not intended that the holders of A licences

able to operate as if they were in possession of B licences, and you will remember that it was pointed out that certain transport companies had in addition to their principal 209 main task of transport had, I think, transport work somewhere in the vicinity of Nairobi, and had been permitted in the past to use these vehicles on occasions to bring transport into Nairobi or where-ever they wished to take it. Therefore we have made provision in that clause to permit the Board to grant amelioration in this direction by permitting owners of transport A licences to use vehicles in this way. Incidentally they have a perfect right to use it in this way or in any way provided that they do it in conformity with the principles of the Ordinance.

Clause 3 merely provides that licences shall expire on the 31st December. Originally it had been thought that a licence should last from one year whenever it was taken out, but as we visualised the working of the Ordinance it became perfectly clear that it would be probably of great assistance to those taking out licences if in fact the licence expired at the same time as the other licences of the Traffic Ordinance. It is not thought, and personally I do not think, that after the first year it will be necessary for this Board to consider at any length at least 80 per cent of the applications for licences. Take for example the licence called the C licence. I should imagine that 80 per cent of these will be granted out of hand after the initial enquiry. And as we visualise it the Board will be able to direct the District Commissioner or whoever it is issuing the C licence that if X, Y or Z applies for a C licence it may be granted to him. At the same time he applies for his ^{ordinary} licence so that he will not be obliged to make a further application, and pay a small sum to get one or both of these things.

With regard to the exclusive licence clause which has received a certain amount of criticism, we have

provided that there should be six months' notice when it is the intention of the Board to grant such exclusive licences, and that it should be given in the Gazette and in the papers in order that those who wish to object will have every opportunity of coming forward and putting their case before the Board.

Clause 13 has been clarified to make it perfectly clear by co-relating it to the subsequent clauses that it is not the intention that that clause should operate except during the first year. This is obviously necessary as it strikes at the whole basis of control were it to be held otherwise.

The objection taken by Mr. Market with regard to reasons being given in writing by the Board has also been met in Clause 14 which sets out that the reasons^{that} are required shall be set out in writing.

Clause 17 has one small amendment at the suggestion of the Acting Director of Public Works and that is with regard to the types to be used on vehicles. The point about that is this. As hon. members are aware on mud roads it is most important to remember that tyres too small for wide lorries which are conveying anything along the roads should not be used say during wet weather, and where licences are going to be granted to run over that type of road we have given power to the Board that they cannot be permitted on that vehicle unless they are of a certain size.

Clause 21 meets the point made by the Hon. Member for Ulster and gives the local authority power to intervene and object to the granting of any licences to vehicles which are going to run over their roads. We have also provided that regulations made under the Ordinance will be laid on the table of the Council and the usual provision with respect to 10 days within which members may bring a resolution for amendment or annulment.

holders having to keep a record and we had to alter that section very considerably, 211

by leaving it entirely to the Board to decide whether it will be necessary for any particular person to keep a records. As we visualise it at present it would ~~be~~ not be particularly necessary for any person with a C licence to keep a record but on the other hand it will probably be necessary that every holder of an A licence should have to keep such a record.

Clause 30 has been varied to some extent. Firstly by permitting the Board to authorise persons to stop vehicles and examine them with regard to the conditions under which they are travelling. As it read it meant that ~~anyone~~ it would only be the police and people of that class who could stop them. Now, anybody who is authorised by the Board will be able to do so and will be authorised in writing. This is, I submit, an extremely necessary provision because the number of people we have to authorise or should authorise will be people like the road overseers and officers of the Public Works Department who probably know a great deal more about it than any unfortunate policeman. and we have no doubt the Board will use this power to authorise these particular persons to stop and examine vehicles.

The power of arrest has also been reduced in that only those over the rank of assistant sub-inspector will be permitted to arrest anyone found to be offen in against the law and then only if they have reasonable cause to believe by issuing an ordinary summons the offender will not appear.

At the end of this report there are two or three recommendations which, strictly speaking, do not form any part of the Ordinance itself, but which we have put in in the hope that ^{they} it will be of some guide to Government and also to the Board when it is established.

The first is we consider that C Licences should be kept as small as possible. We would like to have

said that they should be free but we realise that that may be going too far but we sincerely trust that it will not be necessary to charge more than ~~twice~~ half-a-crown. We are also very alive to ~~the~~ this fact that if ~~traffic~~ transport control is really going to be successful in these three territories we should collaborate as far as possible with our neighbours and we think that it is a matter of ~~x~~ ~~importance~~ that the licences should be the same under the neighbouring territories. We do not suggest that is the proper method by which that can be achieved. But no doubt co-operation with the other territories will be able to do it.

We went very carefully into the question of ~~the~~ appeals and we found a certain amount of difficulty. Our first difficulty was that ordinances in the neighbouring territories have already been passed. And there appeals go to the Supreme Court. The next difficulty was that if an appeal was to go, as some ^{non.} members suggest, to the Governor in Council, firstly we were not quite sure whether the Governor in Council was the proper body to ask with its many duties to also take on the task of the sort of a court appeal. And secondly it seemed peculiar that the one person who should be able to advise the Governor and his Executive Council on these matters would automatically be stopped from saying anything, namely the Attorney General, because it would be an appeal against himself. And we really thought that the best possible court of appeal that could be set up would be an Appeal Board of three people, unofficial gentlemen. We visualised a retired local man, possibly as the chairman and two other ordinary citizens who are not interested in transport. But again we do not want to start that in Kenya when it is not found in the neighbouring territories, and in any discussions that take place with the neighbouring

territories we trust that this Government will put that point of view to them with the idea possibly of setting up one Court of Appeal for all three territories. But that is a matter of detail that can be considered later by the Government.

These are all the amendments that have been made. Nothing drastic has been done and the committee does think that it has made the Bill into as practical a proposition as possible. Mr Kely I beg to move.

MR WALLACE acceded.

Mr Kely,

MR PANDYA : / I do not think that the important points which we have made in the debate on this Bill have been given any consideration at all by the Select Committee. No doubt certain changes have been made and more or less they are very minor changes but the most important points that were raised from outside have been completely ignored. In certain instances provisions in the Bill have been made more strong but I do not understand what the necessity of changing the definition of "ship" is because it was found in the Uganda Bill and I should like to know whether the Uganda Bill has made any changes from the Kenya Bill.

Attention has been drawn to Clause 5 sub-section C, C, in regard to arbitrary powers being given to the members of the licensing authority, and this important point has not been considered by the Committee at all. In Clause 12 the safeguard which was intended by that Clause, and a very great effort was made to show the justice and reasonableness of that clause in regard to automatic licences which will be issued for the first year, appears to have been to a certain extent to be whittled by the amendment of this clause so that the safeguard is only sure now for the first year and the ordinary transport people will come under the Bill for the second year. There does not appear to be this common concession because it is humanly impossible for the Government to put into practice this Bill without giving time, for a year, to work it out.

In Clause 17 the Hon. Member explained that the condition in regard to the insertion of the clause mentioning that certain types of tires should be used has been done at the request of the Director of Public Works. The point in this connection is that it appears to me that they have been going into a very great detail in regard to this Bill and it is also going to inflict

hardship on the transport owners in which if they make an effort and also say what kind of tires they would require on these lorries, it would certainly be a very great hardship on the transport owners.

In Clause 21, the power of objection to the application of licences which has been given to Local Authorities - I think this is, in my opinion, a very serious issue as far as we are concerned. Formerly, according to the Bill, power was given to a person who had already provided facilities and his objections they were prepared to take into consideration. But this power given to the Local Authorities ^{as to where the} ~~the~~ transport owner has to travel is much more serious than that borne by the servant because when that lorry owner is applying for a licence a number of the local authorities will be affected whose roads will have to be traversed, and the local authorities as we know are very unsympathetic to the Indian interests. And there happens to be no Indian representative on these local authorities if and when we had even small reasons to object to the issue of these licences ~~responsibilities~~ on these roads, there will be endless trouble in regard to the issuing of these licences, and this, in fact, is going to be one of the biggest objections from our point of view in this Bill.

The most important point which we have made on that Bill was in regard to Clause 3, about the membership of the Board, and it appears to have been left as it is. Our views in that connection seem to have been entirely ignored and we have had no consideration given to us in this matter. In this regard I should like to say that we have had no opportunity of presenting our case to the Select Committee with regard to this very important point. Although I do not say that even if we had been given this opportunity our point of view would have been carried out because in any case we would have been in the absolute minority. But my objection and real reason for bringing

this point forward is that even the standards of fairness and justice which are considered to be inherent in the British Constitution were denied us in this particular instance, because an effort was made by this side to request the Government that at least three members should be on the Select Committee and the Government brushed it aside and refused to consider it. The result was that ~~the~~ an Indian member was not allowed to be on that Select Committee. In this connection ~~xxx~~ we have succumbed to the force which is there. My point is, let us have a giant's strength but let us not use it as giants. But the Government which have this strength has used it as a giant in this connection. Not only was the steam-roller enforced but they put a trailer at their back in the form of the European elected members. There was there a chance of the poor Indian member or Indian interests surviving when those two were going over their interests.

In view of the attitude which appears to have been taken by the Government ignoring all what we said, I do not think we should be expected to change our opinion with regard to our opposition to this Bill. The time has not yet come when we can go further and say that Indian interests would be allowed to be represented on the Board because that question is still to be decided by the Government later on. But I hope and I appeal to the Government in all sincerity that in view of the very large interests involved, the interests involved are entirely Indian, and in this small case I think we have made it out that that is so, and I think because we have made out an ~~an~~ unanswerable case as regards representation

them on your board that the Government will consider our viewpoint seriously and, if I may say so, sympathetically if we have occasion to come to this Council again and move a motion drawing attention to an injustice which has been inflicted by the Indians not being given any representation on the board.

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 Transport
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MR HARVEY : Your Honor, it is very rare that remarks by the hon. member who has just spoken can be described as a facile flow of fallacy but such is the case on this occasion. The first serious fallacy is that he states categorically that the Indians were denied representation on this Select Committee. Well, every hon. member of this Council is aware of the facts of the case, and fully aware of the fact that the Indians were given every opportunity of representation on this Select Committee that we have had and always have been given on these Select Committees. (Mr ISHER DAVIS : Rubbish. HIS HONOR : Order.) Moreover the Indians, in common with all other members of the Assam public had full and ample opportunity of appearing before the Select Committee and stating their case. One of them, actually one of the hon. Indian members threatened to do so but for reasons best known to himself he failed to turn up at the critical moment.

I should like to say quite plainly that not one point made in the debate was not considered in very great detail by the Select Committee under the chairmanship of the hon. and learned ~~member~~ mover. Not only were the points mentioned in the debate considered, but as I mentioned a moment ago, the public were invited to appear and that their views and representative members of the public did so, representatives of transport organisations and other representative citizens. There was a considerable amount of criticism and various suggestions were sent to the Committee in writing. All these were considered in very great detail and with

very great care by the Select Committee. So it is quite incorrect to say that any point was not very, very carefully considered.

Now the hon. gentleman also stated quite plainly that no ^{notice} ~~intimation~~ was taken of the representations made in regard to Clause 3, sub-clause 6. Actually I venture to attract his attention to page 2 of the ^{Select} Committee's Report in which it is clearly to be seen that Clause 3 has been most drastically amended by the complete substitution and a series of new proposals for the original clauses 2 to 6. Another point was that a statement was made that Local Authorities are invidiously unsympathetic to Indian interests. Now I have had occasion before to challenge that statement in this Council and I do so again. Frequently I am ~~now~~ privileged to attend the meetings of the Nyansa District Council. It has and always has had a representative of Indian interests and the gentleman who represented these interests did so ably and efficiently and puts up such cogent arguments for the people he represents and has always been listened to with respect and very often gains his point. It is quite incorrect to say that the District Councils are invariably hostile to Indian interests. There is no reason to suppose that the powers that it is proposed to endow the Local authorities with under this ~~is~~ Ordinance will be exercised other than with the maximum of discretion and equity.

The hon. gentleman quoted some remarks and I say with all respect that they had nothing to do with the Select Committee's Report. He endeavoured once again to make a point which has been made repeatedly in the second reading of the Bill in regard to specific Indian representation on the Licensing Board and on the Select Committee. I am quite sure this Council and I am quite sure that all reasonable people have no

desire whatever to fetter the discretion of His
Excellency's government in the making, in my opinion, of
this very important law. I support the motion.

MR BEMISTER : Yr Kaly, I am rather irritable because so much has been talked about concerning Indian interests in this Bill. My whole object in rising is to press a little for the native interests and those of the consumers and the ratepayers. So far as I can see it, this Bill intends to protect the roads and generally control the traffic but I have never had any reply to the question I raised in the original debate in regard to parts 2, part 4, pages 14 and 15, Clauses 2 c, 3 b and 4 b.

I cannot understand how you are going to work a Bill of this kind meant and designed entirely for the protection of the roads without you are going to introduce into it some system of regulating the prices of traffic. We all know today that innovations are continually being made, especially in transport Bills. And you have the instance of the Machakos lorry which up to a few months ago was taking passengers at a shilling a time from Nairobi to Machakos. Along comes a man later with a crude diesel - I think that is what they call it - although I know it is ^a much cheaper thing, and much cheaper running costs and can do it for 75 cents. The way I read this Bill, if you have given a concession of an ~~exclusive~~ exclusive licence to a man driving on certain given roads and his fee is say one shilling, you then preclude a new man with a new invention from cutting the rates for the benefit of the natives - for it is the natives mostly who are concerned in this Bill so far as rates are concerned. I consider my remarks and suggestions in the previous debate were never considered and were never debated for one second in the Select Committee.

ARCHDEACON BURNS : Yr Holty, I only ~~me~~ just want to say ^{not only} one word in the interests/of the natives but of every other section of the community so fully and impartially treated in that Select Committee. Every item and everything that was mentioned here this morning was taken into consideration, even the ^{fares} ~~taxes~~ that the natives might have to pay were also taken into consideration. With regard to paragraph 3 that has been mentioned, that was discussed at some length and the Select Committee came to the conclusion that ^{after} it had taken everything into consideration, it was better ^{perhaps} to leave it as it was in the original Bill. I do say that every section of the community, Native, European and Indian, was discussed impartially and fully so that justice might be done to every section of the community. As the hon. and learned mover when he first brought the Bill before the Council said, it was not the intention of the Government to drive anyone who was running an efficient service off the road unless there ^{were} ~~were~~ real reasons by the Licensing authority that they should be driven off the road. That was kept in mind all the time and was never forgotten during the discussions by the Select Committee.

16th Dec. 37.
Transport
Licensing

MR HARRAGIN : Yr Xely, after listening to the speech of the Hon. Member for Nyanza I feel there is very little for me to say. If I were by nature a rude person I would answer Mr Pandya very shortly by saying that as he took no notice of my Committee I take no notice of the points he makes with regard to my Committee report. But in point of fact we have treated him far better than he thinks, because, as he ~~xxx~~ has already been told by two speakers and I repeat it in order that it should come from the Government side, that every single point made in the course of the debate ~~incommensurate~~ commencing with ~~the second reading~~ the second reading that I was able to take down were carefull^y considered one by one by the Select Committee.

I foresaw from the very beginning of the debate on the second reading the attitude the hon. ~~the~~ Indian members were going to take up and that was why I was so careful to interpose at the end of that day and state the Government's position clearly with regard to the members of that Select Committee. The hon. Indian members know perfectly well that if they wished any different representation on ~~the~~ Select Committee than they have got, the proper time is when the motion is put as it ~~was~~ was done on this occasion by me, with regard to the personnel of the committee.

The Hon. Indian members are perfectly aware that nothing definite ~~was~~ had been decided by the Government at the time that the motion was put - that we had said that the normal procedure would be adopted. The normal procedure was adopted and not the slightest effort was made to alter that ~~except~~ ~~by~~ ~~the~~ ~~committee~~ of ~~representing~~ one Indian member, ~~who~~ who as a rule assisted on Select Committee ~~and~~ and objected to the whole principle of the Bill would refuse to serve on this particular Committee. So that ended that.

And further we ~~have~~ are well aware that every effort was made to prevent, so far as one could, to prevent Indians who were interested in the Bill, from coming and giving evidence before the Committee. So I think that any Indian member who takes any exception to what appears in that Select Committee report is on an extremely bad ground as he himself refused to come and assist and instead did his utmost to prevent anyone else assisting us in any way whatever from his community.

^{In}
~~another~~ point of fact : We have considered all these points and dealt with them but it is impossible to deal with people when dealing with details of a Bill who object to the principle. Hon. Indian members will understand that at once. If you start off by saying it is ^{bad and} ~~stupid~~ impossible Bill and say you won't do a thing but say that you don't want it this Bill and go on arguing minor points as to the types and that sort of thing

Two small points have been made as regards the details of the Bill. ^{was} One with regard to the types of tires. I do suggest that it is ~~absurd~~ absurd to ask a Board one of whose duties it ^{is} will be to endeavour as far as it can to preserve the amenities of the road, to prevent them from deciding the types of vehicle that should run over a particular load. It is perfectly clear that if you use a ^{very} narrow tyre on an extremely heavy vehicle that it must cut up the road in wet weather a great deal more than a heavy tyre. The net result will be that the road will be closed altogether to traffic in a very short time. One of the duties of this Board will be to endeavour to keep these roads open and I suggest that it is most important that this Board should be able to say what type of tyre ought to run over a particular road.

The next point made was in regard to Local

Authorities. I personally can see no argument whatever in suggesting that the people who are more responsible for the roads in their district than anybody else should be the only people precluded from coming and giving evidence before the Board. It seems to me a matter of elementary justice ^{that people} whose roads are run over by vehicles to whom the Board is going to issue licences should be heard before the Board granting those licences.

With regard to Indian representation on the Board the position of the Government has been stated ^{perfectly} clearly and there is nothing in the Bill to preclude them as far as I know. The Hon. Member for Mombasa objects to the regulation of prices and quoted as an example that if we granted an exclusive licence it would prevent anyone else with a cheaper diesel engine coming in and running it at cheaper rates on these roads. Of course he is right. If we grant an exclusive licence no one can come in whether he has a cheaper vehicle or a more expensive one. The object of the exclusive licence which I do not suppose will be often used is to attract someone to give a service not given at the present time. It would be manifestly unjust the moment we got a service running to allow someone who would not come in when the road was free, and would not come in then but the moment the traffic proved sufficient to start ^{that} at least one company ^{to} ~~would~~ be permitted to come in and run at a cheaper rate and oust out the pioneer of the business.

Actually there is one thing - an exclusive licence will be given extremely seldom in practice. At the same time it would be a very retrograde step ^{to say} it should not be given at all.

I do not think there are any other points raised in the course of the debate. I beg to move adoption of the Bill.

MR PENNYA : Yr Kely, on a point of explanation I think it is incorrect to say that the Indian member refused to sit on the Committee because he disagreed with the principle. But it was because we were refused representation of more than one that we ~~refused~~ did not serve.

The motion was put and carried.

MR HARRAGEN moved that the Bill be read a third time and passed.

MR WALLACE seconded.

~~The question was put and carried and the Bill was passed.~~

The Bill was read a third time and passed.

Any other communication on this subject should be addressed to—

The Under Secretary of State for India,
Public & Judicial Department,
India Office,
London, S.W. 1.

and the following reference quoted:—
P. & J. 245/38.

Telephone: Whitehall 8140, 8141, 8142.
Telegrams: Retaxandun, London.



INDIA OFFICE,

WHITEHALL,

LONDON, S.W. 1.

15 January, 1938.

RECEIVED
17 JAN 1938
C. O. REGY.

Sir,

(10) ... file
With reference to the letter from this Office No. P. & J. 5776/37 dated the 31st December 1937 on the subject of the Kenya Transport Licensing Bill I am directed to forward, for the information of the Secretary of State for the Colonies, copy of a telegram from the Government of India from which it appears that the Bill was passed before the receipt of the Government of India's observations. Lord Zetland would nevertheless be glad if Mr. Ormsby-Gore would give his consideration to the comments of the Government of India which were contained in the letter from this Office referred to above.

I am, Sir,

Your obedient Servant,

R. Peel

The Under Secretary of State,
Colonial Office.

228
1938 END

IT/JRL/VH.

(65 words.)

1-6

DECODE OF TELEGRAM

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From	Government of India, Department of Education, Health and Lands, to Secretary of State for India.
Dated	New Delhi, 12th January, 1938.
Received	7.45 P.M., 12th January, 1938.

F.195/37 L and O. Continuation of our telegram F195/37 L and O dated December 28th, 1937. Press reports indicate that Kenya Transport Licensing Bill was passed in Legislative Council before our comments were despatched. We have wired Kenya Government for copies of Bill as passed and of debate at various stages. After consideration of these papers when received we shall cable you if necessary. Meanwhile we would suggest that, if you see no objection, Colonial Office may be asked to consider comments already made by us.