



THE
OFFICIAL GAZETTE
OF THE
COLONY AND PROTECTORATE OF KENYA.
(SUPPLEMENT).

Published under the authority of His Excellency the Governor of the
Colony and Protectorate of Kenya.

Vol. XXIV.—Supplement No. 5]

NAIROBI, October 4th, 1922.

*His Excellency the Governor has approved of the following
Bills being introduced at the Next Session of the Legislative
Council.*

G. R. SANDFORD,
Clerk to the Legislative Council.

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A Bill

Intituled

An Ordinance to Amend the East Africa Police Ordinance, 1911.

1. This Ordinance may be cited as "The Police (Amendment) Ordinance, 1922," and shall be read as one with the East Africa Police Ordinance, 1911, hereinafter referred to as the Principal Ordinance. Short title.
- 5 2. Section 30 of the Principal Ordinance is hereby amended by the addition of the following sub-section:— Engagement of persons who have served in Police elsewhere.
- 10 (5) If an Asiatic or African having served as a Non-commissioned Officer or Constable in the similarly constituted Police Service of the Uganda Protectorate or the Tanganyika Territory is enlisted in the Police within six months of having received a certificate of discharge from the appropriate authority he shall be allowed to count his period of service in such Territory or Protectorate as if it had been served in the Police, provided that the Governor so directs.
- 15 3. Section 38 of the Principal Ordinance is hereby amended by the addition in the penultimate line of sub-section (2) immediately after the words "Section 30 (4)" of the words "and (5)." Gratuity on discharge.
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A Bill

Intituled

An Ordinance to Amend the Prisons Ordinance, 1914.

1. This Ordinance may be cited as "The Prisons (Amendment) Ordinance, 1922," and shall be read as one with the Prisons Ordinance, 1914, hereinafter referred to as the Principal Ordinance. Short title.
- 5 2. Section 30 of the Principal Ordinance is hereby amended by the addition of the following sub-section:— Engagement of persons who have served in prison dept. elsewhere.
- 10 (4) If an Asiatic or African having served as a Subordinate Officer in the similarly constituted Prison Department of the Uganda Protectorate or Tanganyika Territory is enrolled in the Prison Department within six months of having received a certificate of discharge from the appropriate authority he shall be allowed to count his period of service in such Territory or Protectorate as if it had been served in the Prison Department, provided that the Governor so directs.
- 15 3. Section 38 of the Principal Ordinance is hereby amended by the addition in the penultimate line of Sub-section (1) immediately after the words "Section 30 (3)" of the words "or (4)." Gratuity on discharge.

A Bill

Intituled

An Ordinance for the Reciprocal Enforcement of Judgments in the Colony, and other parts of His Majesty's Dominions and Territories under His Majesty's Protection.

Short title.

1. This Ordinance may be cited as "The Reciprocal Enforcement of Judgments Ordinance, 1922."

Interpretation.

2. (1) In this Ordinance, unless the context otherwise requires the expression "Colony" shall mean the Colony and Protectorate of Kenya: 5

The expression "Judgment" means any judgment or order given or made by a Court in any civil proceedings, whether before or after the passing of this Ordinance, whereby any sum of money is made payable, and includes an award in proceedings on an arbitration if the award has, in pursuance of the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a Court in that place: 10

The expression "original Court" in relation to any judgment means the Court by which the judgment was given:

The expression "registering Court" in relation to any judgment means the court by which the judgment was registered: 15

The expression "judgment creditor" means the person by whom the judgment was obtained, and includes the successors and assigns of that person:

The expression "judgment debtor" means the person against whom the judgment was given, and includes any person against whom the judgment is enforceable in the place where it was given. 20

(2) Subject to Rules of Court, any of the powers conferred by this Ordinance may be exercised by a Judge of the Court. 25

Enforcement in the Colony of judgments obtained in superior courts in the United Kingdom.

3. (1) Where a judgment has been obtained in a superior Court in the United Kingdom, the judgment creditor may apply to the Supreme Court, at any time within twelve months after the date of the judgment, or such longer period as may be allowed by the Court, to have the judgment registered in the Court, and on any such application the Court may, if in all the circumstances of the case they think it is just and convenient that the judgment should be enforced in the Colony, and subject to the provisions of this section, order the judgment to be registered accordingly. 30

(2) No judgment shall be ordered to be registered under the section if:— 35

(a) the original court acted without jurisdiction; or

(b) the judgment debtor, being a person who was neither carrying on business nor ordinarily resident within the jurisdiction of the original Court, did not voluntarily appear or otherwise submit or agree to submit to the jurisdiction of that Court; or 40

(c) the judgment debtor being the defendant in the proceedings, was not duly served with the process of the original Court and did not appear notwithstanding that he

was ordinarily resident or was carrying on business within the jurisdiction of that Court or agreed to submit to the jurisdiction of that Court; or

(d) the judgment was obtained by fraud; or

5 (e) the judgment debtor satisfies the registering Court either that an appeal is pending, or that he is entitled and intends to appeal, against the judgment; or

10 (f) the judgment was in respect of a cause of action which for reasons of public policy or for some other similar reason could not have been entertained by the registering Court.

(3) Where a judgment is registered under this section:—

15 (a) the judgment shall, as from the date of registration, be of the same force and effect, and proceedings may be taken thereon, as if it had been a judgment originally obtained or entered up on the date of registration in the registering court;

20 (b) the registering Court shall have the same control and the jurisdiction over the judgment as it has over similar judgments given by itself, but in so far only as relates to execution under this section:

25 (c) the reasonable costs of and incidental to the registration of the judgment (including the costs of obtaining a certified copy thereof from the original Court and of the application for registration) shall be recoverable in like manner as if they were sums payable under the judgment.

(4) Rules of Court shall provide:—

30 (a) for service on the judgment debtor of notice of the registration of a judgment under this section; and

(b) for enabling the registering Court on an application by the judgment debtor to set aside the registration of a judgment under this section on such terms as the Court thinks fit: and

35 (c) for suspending the execution of a judgment registered under this section until the expiration of the period during which the judgment debtor may apply to have the registration set aside.

40 (5) In any action brought in any Court in the Colony on any judgment which might be ordered to be registered under this section, the plaintiff shall not be entitled to recover any costs of the action unless an application to register the judgment under this section has previously been refused, or unless the Court otherwise orders.

45 4. Where a judgment has been obtained in the Supreme Court against any person, the court shall, on an application made by the judgment creditor and on proof that the judgment debtor is resident in the United Kingdom, issue to the judgment creditor a certified copy of the judgment. Issue of certificates of judgments obtained in the Colony.

50 5. The Chief Justice shall have power to make Rules of Court for regulating the practice and procedure (including scales of fees and evidence), in respect of proceedings of any kind under this Ordinance. Power to make rules.

55 6. (1) Where the Governor is satisfied that reciprocal provisions have been made by the legislature of any part of His Majesty's Dominions outside the United Kingdom for the enforcement within that part of His Majesty's Dominions of judgments obtained in the Supreme Court of the Colony, the Governor-in-Council may by Proclamation in the Gazette declare that this Ordinance shall extend to judgments obtained in a superior Court in that part of His Majesty's Dominions in like manner as it extends to judgments obtained in a superior Court in the United Kingdom, and on any such Proclamation being made this Ordinance shall extend accordingly. Extension of Ordinance to Dominions.

65 (2) For the purposes of this Section the expression "part of His Majesty's Dominions outside the United Kingdom" shall be deemed to include any territory which is under His Majesty's protection or in respect of which a mandate is being exercised by the Government of any part of His Majesty's Dominions.

A Bill

Intituled

An Ordinance to Amend the Ostrich Ordinance, 1907.

- Short Title.** 1. This Ordinance may be cited as "The Ostrich (Amendment) Ordinance, 1922," and shall be read as one with the Ostrich Ordinance, 1907, hereinafter called "the Principal Ordinance."
- Amendment of Section 6 of Principal Ordinance.** 2. Section 6 of the Principal Ordinance is hereby repealed and the following Section is substituted therefor. 5
- "6. Any landholder who satisfies the Resident Commissioner or District Commissioner of the district in which he resides that it is his intention to engage in the business of Ostrich-farming, may be registered by the Resident Commissioner or District Commissioner as an Ostrich farmer upon payment of a fee of ten shillings. 10
- Amendment of Section 11 of the Principal Ordinance.** 3. Section 11 of the principal Ordinance is hereby amended by the deletion of the words "of European birth or descent" where they occur.

A Bill

Intituled

An Ordinance to Amend "The Maintenance Orders Enforcement Ordinance, 1921."

- Short Title.** 1. This Ordinance may be cited as "The Maintenance Orders Enforcement (Amendment) Ordinance, 1922," and shall be read as one with the Maintenance Orders Enforcement Ordinance, 1921 (hereinafter referred to as "the Principal Ordinance").
- Amendment of Section 2 of Principal Ordinance.** 2. Section 2 of the Principal Ordinance is hereby amended by deleting the words "England or Ireland" in lines 11 and 12 thereof and substituting therefor the words "that part of His Majesty's Dominions in which the maintenance order was made." 5
- Amendment of Section 3 of Principal Ordinance.** 3. Sub-section (2) of Section 3 of the Principal Ordinance is hereby deleted and the following substituted therefor:— 10
- "(2) The Court in which an order is to be so registered as aforesaid shall, if the court by which the order was made was a court of superior jurisdiction, be the Supreme Court and if the court was not a court of superior jurisdiction, be a subordinate court of the first class." 15
- Reciprocity between Kenya and other British possessions.** 4. The Principal Ordinance is hereby amended by addition of the following Section:—
- "10. Where the Governor is satisfied that reciprocal provisions have been made by the Legislature of any British possession or any territory under His Majesty's protection for the enforcement within such possession or territory of maintenance orders made by the Courts in the Colony or Protectorate of Kenya, the Governor may by Proclamation extend this Ordinance to maintenance orders made by the Courts within such possession or territory, and thereupon this Ordinance shall apply to such maintenance orders as if they had been made in England or Ireland." 20 25

A Bill

Intituled

An Ordinance to provide for the Administration of Promissory Oaths.

1. This Ordinance may be cited as "The Promissory Oaths Ordinance, 1922." Short title.
2. The several oaths required to be taken under this Ordinance shall be in the Forms set forth in the First Schedule to this Ordinance. Forms of oaths.
3. The several oaths set out in the first column of the Second Schedule to this Ordinance shall be taken by the respective persons named in the second column of the said Schedule as soon as may be after their appointment to or acceptance of office, and shall be tendered by the respective persons named in the third column of the said Schedule. Persons to take and tender oaths.
4. If any person mentioned in the second column of the Second Schedule to this Ordinance refuses or neglects, when any oath required to be taken by him under this Ordinance is duly tendered, to take such oath, he shall, if he has already entered on his office, vacate the same, and if he has not entered on his office, be disqualified from entering on the same; but no person shall be compelled, in respect of the same appointment to the same office, to take such oath more times than one. Consequence of not taking required oath.
5. Where an oath is required to be taken under this Ordinance, every person for the time being by law permitted to make a solemn affirmation or declaration instead of taking an oath may, instead of taking such oath, make and subscribe a solemn affirmation in the form of the oath hereby appointed, substituting the words "solemnly and sincerely, declare and affirm" for the word "swear" and omitting the words "So help me God." Cases in which affirmation is allowed in lieu of oath.
6. Where in any oath under this Ordinance the name of His present Majesty is expressed, the name of the Sovereign of the United Kingdom for the time being shall be substituted from time to time. The name of the Sovereign for the time being to be used in oaths.
7. Nothing in this Ordinance shall affect any other oath required or authorised by law to be taken or made. Saving.

FIRST SCHEDULE.

FORMS OF OATHS.

Oath of Allegiance.

I, _____ do sincerely promise and swear that
I will be faithful and bear true allegiance to His Majesty King
George, His Heirs and successors according to law.

Official Oath.

I, _____ do swear that I will well and truly
serve His Majesty King George in the office of _____

So help me God.

Judicial Oath.

I, _____ do swear that I will well and truly
serve His Majesty King George in the office of _____
and I will do right to all manner of people after the laws and
usages of this Colony, without fear, favour, affection or ill-will.

So help me God.

Oath of Executive Councillor.

I, _____ being chosen and admitted of His
Majesty's Executive Council in this Colony, do swear that I will,
to the best of my judgment, at all times when thereto required,
freely give my counsel and advice to the Governor of Kenya for
the time being, for the good management of the affairs of the
Colony, and that I will not directly or indirectly reveal such
matters as shall be debated in Council and committed to my
secrecy, but that in all things I will be a true and faithful
Councillor.

So help me God.

Oath of Clerk to Executive Council.

I, _____, being called upon to exercise the
functions of Clerk to His Majesty's Executive Council to this
Colony, do swear that I will not, directly or indirectly, reveal
such matters as shall be debated in Council and committed to
my secrecy.

So help me God.

SECOND SCHEDULE.

Nature of Oaths.	Persons to take Oaths.	Persons to tender Oaths.
Oath of Allegiance and Official Oath.	The Colonial Secretary	The Governor.
	The Attorney General	"
	The Treasurer	"
	The Chief Native Commissioner	"
	The Principal Medical Officer	"
	The General Manager, Uganda Ry.	"
	The Commissioner of Lands	"
	The Director of Agriculture	"
	The Director of Public Works	"
	The Commissioner of Customs	"
	Such other Executive Officers as may be designated by the Governor from time to time	"
Oath of Allegiance and Judicial Oath.	The Chief Justice	"
	The Puisne Judges	"
	Magistrates	The Governor or such other person as he may appoint.
	Administrative Officers holding Magisterial Warrants	"
	Justices of the Peace	"
Oath of Executive Councillor.	Executive Councillors	The Governor.
Oath of Clerk to Executive Council.	The Clerk	"

A Bill

Intituled

An Ordinance to amend the Industrial Alcohol Ordinance, 1921.

Short Title.

1. This Ordinance may be cited as "The Industrial Alcohol (Amendment) Ordinance, 1922," and shall be read as one with the Industrial Alcohol Ordinance, 1921, hereinafter called "The Principal Ordinance."

Amendments
to Section 2 of
the Principal
Ordinance.

2. Section 2 of the Principal Ordinance shall be amended as follows:—

(1) By the deletion of the definition of "Licensed Premises."

(2) By the addition of the words "any Rules made under" immediately before the word "this" in line 2 of the definition of "Denature."

(3) By the deletion of the word "or" in the first line of the definition of "Wort."

(4) By the deletion of the word "wash" where it occurs immediately before the word "prepared" in the definition of "Wash" and by the substitution therefor of the word "wort."

(5) By the addition of the words "still or" immediately before the word "apparatus" in line 2 of the definition of "still."

A Bill

Intituled

An Ordinance to safeguard Native Food Supplies in time of shortage.

1. This Ordinance may be cited as "The Native Foodstuffs Ordinance, 1922." Short title.

2. In this Ordinance unless the context otherwise requires Definitions.

"Native" shall mean any native of Africa and shall include
5 Somalis and Swahilis.

"Native Foodstuffs" shall include every article used for
food or drink by natives other than drugs or water and shall
include any article which commonly enters into or is used in the
composition of such food or drink and shall also include flavouring
10 matters and condiments.

3. Where it has been made to appear to the Governor-in-
Council that any district or area is suffering from, or threatened
with a shortage of native foodstuffs he may issue a Proclamation
for any of the following purposes:— Powers of
Governor-in-
Council.

15 (a) Prohibiting the purchase or barter of such foodstuffs
generally or of any class or classes of the same, for the purpose
of resale in or export from the district or area in such
Proclamation specified, unless the written permission of the
Resident Commissioner or District Commissioner as the case
20 may be, be first obtained. Prohibiting
purchase for
resale or
export.

(b) Prohibiting the export of such foodstuffs generally or
of any class or classes of the same from any district or area. Prohibiting
export.

(c) Fixing the maximum price at which any such food-
stuffs may be sold for the purposes of consumption in any
25 district or area. Power to fix
maximum
prices.

(d) Prohibiting the use of such foodstuffs or of any class
or classes of the same for the manufacture of liquor in any
district or area.

(e) Prohibiting the concealment or destruction of such
30 foodstuffs or any class or classes of the same in any district or
area.

(f) Acquiring compulsorily such foodstuffs or any class or
classes of the same in any district or area at the maximum price
mentioned in sub-section (c) of this Section.

35 4. Any person purchasing or bartering or attempting to
purchase or barter native foodstuffs from Arabs or natives, or
exporting or selling or attempting to export or sell native food-
stuffs, or using or attempting to use native foodstuffs for the
manufacture of liquor, or concealing or destroying or attempting
40 to conceal or destroy native foodstuffs in contravention of this
Ordinance shall be guilty of an offence and shall upon conviction
be liable to a fine not exceeding £50 or to imprisonment of either
description for a term not exceeding six months or to both. Offences and
penalties.

A Bill

Intituled

An Ordinance to amend the Electric Power Ordinance, 1919.

Short title.

1. This Ordinance may be cited as "The Electric Power (Amendment) Ordinance, 1922," and shall be read and construed with the Electric Power Ordinance, 1919, (hereinafter called "the Principal Ordinance").

Company exempted from operation of Section 9 of Principal Ordinance.

2. Section 9 of the Principal Ordinance shall not apply to the undertaking of the Mombasa Electric Power and Lighting Company carried on pursuant to the provisions of the Agreement made on the eighth day of August, 1910, between Alfred Gerald Wright Anderson of the one part and Colonel Sir E. T. C. Girouard (on behalf of the Government of the Colony of Kenya) of the other part, or to any works of the said Company established under the provisions of the said Agreement, and nothing in Section 9 of the Principal Ordinance contained shall be deemed to affect any of the provisions of the said Agreement. 5 10

Duration of Ordinance.

3. This Ordinance shall remain in operation for the period 15 of one year from the date of commencement.

A Bill

Intituled

An Ordinance to Amend The Nairobi (Rating of Unimproved Site Values) Ordinance, 1921.

Short title and commencement.

1. This Ordinance may be cited as "The Nairobi (Rating of Unimproved Site Values) Amendment Ordinance, 1922," and shall be read as one with The Nairobi (Rating of Unimproved Site Values) Ordinance, 1921, hereinafter called "the Principal Ordinance," and shall come into operation on the first day of January, 1923.

2. The Principal Ordinance is hereby amended by the addition of the following Section:—

"Lands exempted from payment of rates.

39. Nothing in this Ordinance shall apply to land used exclusively for public worship, public burial or burning grounds, or charitable purposes."

A Bill

Intituled

An Ordinance to Repeal Section 2 of the Master and Servants (Amendment) Ordinance, 1916.

1. This Ordinance may be cited as "The Master and Servants (Amendment) Ordinance, 1922." Short title.

2. Section 2 of the Master and Servants (Amendment) Ordinance, 1916, is hereby repealed. Repeal of Section 2 of Master and Servants Amendment Ordinance, 1916.

A Bill

Intituled

An Ordinance to Amend the Native Authority Ordinance, 1912.

1. This Ordinance may be cited as "The Native Authority (Amendment) Ordinance, 1922," and shall be read as one with the Native Authority Ordinance, 1912 (hereinafter referred to as "the Principal Ordinance") and the Native Authority Amendment Ordinance, 1920. Short title.

2. Section 7 of the Principal Ordinance as amended by the Native Authority Amendment Ordinance, 1920, is hereby amended as follows:— Amendment Section 7 of Principal Ordinance.

(1) by deleting clause (m) thereof and substituting the following clauses therefor:—

(m) the providing of paid porters for Government servants on tour and for the transport of urgent Government stores;

(n) the providing of paid labour for work on the construction or maintenance of railways, wharves, roads or other works of a public nature if required by the Governor with the prior approval of the Secretary of State;

Provided always that no person shall be required to work under the provisions of clause (m) or (n):—

(a) for a longer period than 60 days in any one year;

(b) if he be fully employed in any other occupation or has been so employed during the preceding 12 months for a period of 3 months;

(c) if he be otherwise exempted under the provisions of any direction issued by the Governor;

(o) requiring natives subject to his jurisdiction to attend before the Senior Commissioner, the District Commissioner, an Assistant District Commissioner or himself at any time and at any place appointed by him;

(p) prohibiting natives subject to his jurisdiction from holding or attending any meeting or assembly within the local limits of his jurisdiction which in his opinion might tend to be subversive of peace and good order, and

(2) the word "and" at the end of clause (l) is hereby deleted;

(3) clause (m) shall become clause (q).

A Bill

Intituled

An Ordinance to apply a Sum of Money for the Service of the Year ending the 31st day of December, 1923.

1. This Ordinance may be cited as "The Appropriation Ordinance, 1922."

2. The Public revenue for the year 1923, and other funds of the Colony and Protectorate of Kenya, are hereby charged towards the service of the year ending the thirty-first day of December one thousand nine hundred and twenty-three, with a sum of one million, eight hundred and twenty-three thousand, nine hundred and nine pounds.

3. The money granted by this Ordinance shall be applied to the purposes and services expressed in the Schedule annexed hereto.

4. The Treasurer of the Colony and Protectorate of Kenya is hereby authorised and required from time to time, upon the warrant or order of the Governor to pay out of the Revenue and other funds of the Colony and Protectorate of Kenya, for the several services specified in the Schedule, the said sum of one million, eight hundred and twenty-three thousand, nine hundred and nine pounds which will come in course of payment during the year ending on the thirty-first day of December one thousand nine hundred and twenty-three.

SCHEDULE.

DIVISION.				AMOUNT.
1.	Rent and Interest to H. H. the Sultan of Zanzibar	...	...	£ 17,000
2.	Pensions and Gratuities	...	...	51,510
3.	His Excellency the Governor	...	...	12,816
4.	Secretariat	...	...	13,901
5.	"Official Gazette" and Printing	...	...	9,963
6.	Administration	...	...	251,545
6a.	do. Special Expenditure	...	...	1,000
7.	Treasury	...	...	18,254
8.	Customs	...	...	36,173
9.	Port and Marine Departments	...	...	14,245
9a.	do. Special Expenditure	...	...	260
10.	Audit Department...	...	...	8,263
11.	Legal Departments	...	...	33,744
12.	Police	...	...	110,374
13.	Prisons	...	...	40,634
14.	Medical Departments	...	...	126,243
14a.	do. Special Expenditure	...	...	3,934
15.	Chemical Research Department	...	...	4,694
16.	Education	...	...	53,175
17.	Military	...	...	180,724
17a.	do. Special Expenditure	...	...	998
18.	Miscellaneous Services	...	...	15,100
19.	Post Office and Telegraphs	...	...	144,680
19a.	do. Special Expenditure	...	...	1,675
20.	Agricultural Department	...	...	83,697
21.	Forest Department	...	...	28,220
22.	Game Department	...	...	3,860
23.	Land Department	...	...	33,870
24.	Public Works Department	...	...	43,846
25.	Public Works Recurrent	...	...	92,273
26.	Public Works Extraordinary	...	...	10,000
27.	Interest	...	...	359,738
28.	Stand Premia	...	...	17,500
Total £				1,823,909

A Bill

Intituled

An Ordinance to Amend the Law Relating to Native Marriages.

Short title.	1. This Ordinance may be cited as "The Native Marriage Ordinance, 1922."
Definition.	2. The term "Native" includes Somali and Swahili.
Ordinance No. 30 of 1902 to apply except as otherwise provided.	3. Except as otherwise provided by this Ordinance the provisions of the East Africa Marriage Ordinance, 1902, shall apply to all marriages celebrated under this Ordinance.
Notice of Native marriage.	4. In addition to the publication prescribed by Section 10 of the East Africa Marriage Ordinance, 1902, a copy of every such notice shall in the case of native marriages be affixed to the outer door of the building in which it is intended to celebrate the marriage and be there kept exposed for the same period as in the original notice.
Written declaration.	5. In the case of natives a written declaration may take the place of the sworn affidavit required by Section 11 of the East Africa Marriage Ordinance, 1902.
Endorsement on certificate.	6. Before issuing any certificate to a native the Registrar shall endorse thereon a declaration that he has explained such of the provisions of the East Africa Marriage Ordinance as apply to natives and the offences and penalties connected therewith.
Conversion of marriage by Native Law into legally binding marriage.	7. Whenever after the commencement of this Ordinance any persons already married or professing to be married to each other by native law or custom desire to convert that marriage into a marriage by which they are legally bound to each other as man and wife so long as both shall live by a ceremony before a Registrar, such provisions of the East Africa Marriage Ordinance, 1902, as apply to a marriage before a Registrar under Section 27 thereof shall apply to such conversion as though it were a marriage under the said section; provided always that in such case the forms (A), (C), (D), (E) and (F) given in the schedule hereto shall be used in lieu of the forms (A), (C), (D), (E) and (F) given in the first schedule to the East Africa Marriage Ordinance, 1902, and the following forms shall be used in lieu of, and shall have the same effect as, those provided in Section 27 of the East Africa Marriage Ordinance, 1902, viz:— In lieu of the first form therein set out, the following:— "Do I understand that you A.B., and you C.D., have been heretofore married to each other by native law or custom, and that you come here for the purpose of binding yourselves legally to each other as man and wife so long as both of you shall live."

In lieu of the second form therein set out, the following:—

“Whereas you A.B., and you C.D., profess that you have been heretofore married to each other by native law or custom and whereas that marriage does not bind you by law to each other as man and wife so long as both of you shall live and whereas you desire to bind yourselves legally each to the other as man and wife so long as both of you shall live: Know ye that by the public taking of each other as man and wife so long as both of you shall live, in my presence and in the presence of the persons now here, and by the subsequent attestation thereof by signing your names to that effect, you become legally bound to each other as man and wife so long as both of you shall live although no other rite of a civil or religious nature shall now take place, and that hereafter your marriage cannot be dissolved during your life time, except by a valid judgment of divorce; and if either of you before the death of the other shall illegally contract another marriage while your marriage to each other remains undissolved, you will be thereby guilty of bigamy, and liable to punishment for that offence.”

And in lieu of the third form therein set out, the following:—

“I call upon all persons here present to witness that, I, A.B., do take thee, C.D., to be my lawful wife (or husband) so long as both of us shall live.”

8. The Governor may appoint ministers of any religious denomination to be Registrars under this Ordinance in respect of marriages solemnized by them who shall have the powers and duties of Registrars under the East Africa Marriage Ordinance, 1902, except that it shall not be necessary for them to transmit to the Registrar-General a certified copy of the entries made by them in the marriage register book more than once in three months.

Governor may appoint ministers as Registrars.

Provided that any minister appointed to be a Registrar under Section 7 of the Native Christian Marriage Ordinance, 1904, shall be deemed to have been duly appointed as a Registrar under this Ordinance.

9. Notwithstanding anything contained in the East Africa Marriage Ordinance, 1902, the following fees shall be chargeable in the case of marriages between natives:—

Fees.

- Filing every notice and entering same ... Sh. 1/-
- Issuing of each certificate or certified copy thereof ... Sh. 1/-

10. The Native Christian Marriage Ordinance, 1904, is hereby repealed but without prejudice to anything done thereunder.

Repeal of Ordinance No. 9 of 1904.

SCHEDULE.

FORM (A).

Notice of conversion of marriage by native law into legally binding marriage.

To the Registrar of Marriages for the.....District of Kenya.

I hereby give you notice that I, the undersigned, and the other party herein named, being married to each other by native law or custom intend within three months from the date hereof to convert that marriage into a marriage by which we shall be legally bound to each other as man and wife so long as both shall live.

Name.	Occupation, Rank or Profession.	Age.	Dwelling or Place of abode.	Consent, if any, & by whom given.
Man ...				
Woman ...				

Witness my hand, this.....day of....., 192 .

.....
Signature.

FORM (C).

REGISTRAR'S CERTIFICATE.

I,.....Registrar of Marriages in the.....
.....District in Kenya, do hereby certify that on the
.....day of....., 192 , notice was duly entered in the
Marriage Notice Book of this District of the intended conversion
by the parties herein named and prescribed of their former marriage
by native law or custom into a marriage by which they shall be
legally bound to each other as man and wife so long as both shall
live, such notice being delivered under the hand of.....,
one of the parties, that is to say:--

Name.	Occupation, Rank or Profession.	Age.	Consent.	Dwelling.	Length of Residence.
Man ...					
Woman ...					

Date of notice entered....., 192 .

Date of certificate given....., 192 .

No caveat has been entered against the issue of the certificate;
or

A caveat was entered against the issue of this certificate on
the.....day of....., 192 , but it has been cancelled.

Witness my hand this.....day of....., 192 .

(Signed) A.B.

Registrar of Marriages.....District.

NOTE:—This certificate will be void unless the ceremony of
converting the marriage by native law into a legally binding
marriage is performed on or before the.....day of....., 192 .

.....A.B.

FORM (D).

SPECIAL LICENSE.

Whereas A.B., and C.D., professing themselves to be already
married to each other by native law or custom desire to convert
that marriage into a marriage by which they shall be legally bound
to each other as man and wife so long as both shall live, and
whereas sufficient cause has been shown to me why the pre-
liminaries required by "The East Africa Marriage Ordinance,
1902," should be dispensed with;

Now, therefore, in pursuance of the said Ordinance, I do
dispense with the giving of notice and the issue of the certificate
thereby prescribed, and do hereby authorise the Registrar of
Marriages for the.....District to perform the ceremony
by which, under the provisions of the East Africa Marriage Ordinance,
1902, the said marriage by native law or custom shall be
converted into a marriage by which the said parties shall be legally
bound to each other as man and wife so long as both shall live.

Such ceremony may be performed by the said Registrar of
Marriages between the hours of 10 o'clock in the forenoon and
4 o'clock in the afternoon.

Given under my hand this.....day of....., 192 .

(Signed).....

Governor.

CERTIFICATE OF MARRIAGE.
KENYA.

FORM (E).

ORDINANCES No. 30, 1902, AND No. , 1922.

No. Marriages by native law converted into legally binding marriages in
the Office of the Registrar of Marriages.
at in the Colony of Kenya.

Date of conversion of mar-
riage by native law into
legally binding marriage.

Names of the Parties :

No.								
Date.....								
.....192.....								
	No.	When Marriage by native law converted into legally binding marriage.	Names and Surnames.	Full age or Minor.	Rank or Profession.	Residence at time of con- version of marriage by native law into legally binding marriage.	Father's name and Surname.	Occupat on, Rank, Profession o Father.
Name of Husband								
Name of Wife.....								
Witnesses }								

Names of the Witnesses : Marriage by native law converted into marriage by which the parties
are legally bound to each other as man and wife so long as both shall live,
at before
me.....

Registrar.

Our marriage by native law was converted }
into a marriage by which we are legally }
bound to each other as man and wife so }
long as both shall live. }

.....
In the presence of us }

Signature of Registrar

Witnesses.

CERTIFICATE OF MARRIAGE.
KENYA.

FORM (E.)

ORDINANCES No. 30, 1902, AND No. , 1922.

No. Marriages by native law converted into legally binding marriages in
the Office of the Registrar of Marriages.
at in the Colony of Kenya.

No.								
Date.....								
.....192.....								
	No.	When Marriage by native law converted into legally binding Marriage.	Names and Surnames.	Full age or Minor.	Rank or Profession.	Residence at time of con- version of marriage by native law into legally binding marriage.	Father's name and Surname.	Occupation, Rank or Profession of Father.
Name of Husband.....								
Name of Wife.....								
Witnesses }								

Marriage by native law converted into marriage by which the parties
are legally bound to each other as man and wife so long as both shall live,
at before
me.....

Registrar.

Our marriage by native law was converted }
into a marriage by which we are legally }
bound to each other as man and wife so }
long as both shall live. }

.....
In the presence of us }

Witnesses.

FORM (F).

Date of conversion of marriage by native law into egally binding marriage.	Names and Surnames.	Whether Full Age or Minor.	Condition.	Occupation.	Residence.	Father's name and occupation.

Entered this.....day of.....19....., at the District
Registry of Marriages at.....

Signed.....

A. B. Registrar.

A Bill

Intituled

The Colony and Protectorate of Kenya Port Ordinance, 1922.

1. This Ordinance may be cited as "The Port Ordinance, Short title. 1922."
2. The provisions of this Ordinance shall apply to the Port Application.
of Mombasa, which includes Mombasa Harbour, Kilindini Harbour, Port Reitz and Port Tudor, and all the space therein up to spring tide high water mark, and is bounded seaward by a line drawn from Ras Kunwongbe to a point on the shore of the mainland half a mile South of Ras Muaka Singe.
- (2) To the Port of Kismayu, which includes so much of the sea as is comprised within a radius of three miles from the Fort flagstaff.
- (3) To the Port of Lamu, which includes Lamu Harbour and that part of Lamu Bay comprised within a radius of three miles from Shella flagstaff.
- (4) To the Port of Malindi, which includes so much of the sea as is comprised within a radius of three miles from Malindi light staff.
- (5) To the Port of Kilifi, which includes Kilifi and Takaungu creeks, and so much of the sea as is comprised within a radius of three miles from Ras Kitoka.
- (6) To all other sea ports or parts of navigable channels of the Colony and Protectorate of Kenya.
3. The Governor-in-Council may by notification in the Gazette:—

Alteration of
Port limits.

 - (1) Alter the limits of any port in which this Ordinance is in force.
 - (2) Any such notification shall define the precise limits of the area to which it refers.

Definitions.

4. "Port Captain" means the Chief Executive Officer appointed to take charge of the Port and Marine Departments for the control of all ports to which this Ordinance applies.

"Port Officer" means the officer appointed to take charge of a particular port under the Port Captain.

"High Water mark" means the highest point reached by ordinary spring tides at any season of the year.

"Pilot" means a person for the time being authorised by the Port Captain to pilot vessels.

"Master" when used in relation to any vessel means any person having, for the time being, the charge or control of the vessel.

Powers of Port Officers.

5. The Port Captain, or the Port Officer of any port, may give directions for carrying into effect the provisions of this Ordinance and any Rules made thereunder within the port or ports under his charge.

Penalties.

6. If any person wilfully or without lawful excuse refuses or neglects to obey any lawful directions of the Port Captain or Port Officer after notice thereof has been given to him, he shall, for every such offence, be punishable with a fine which may extend to Ten pounds, or in the case of a continuing offence, with a further fine which may extend to Ten pounds for every day during which, after such notice as aforesaid, he shall without lawful excuse continue to disobey the directions.

Port Officer may enforce compliance.

7. In case of such refusal or neglect, the Port Captain or Port Officer may do, or cause to be done, all acts necessary for the purpose of carrying the directions into execution, and may hire and employ proper persons for that purpose, and all reasonable expenses incurred in doing such acts shall be recoverable by him from the person so refusing or neglecting to obey the directions.

Power to cut warps.

8. The Port Captain or Port Officer of any port may, in case of urgent necessity, cut or cause to be cut any warp, rope, cable or hawser endangering the safety of any vessel in the port or at or near the entrance thereof.

Removal of obstruction.

9. (1) The Port Captain or Port Officer may remove, or cause to be removed, any timber, raft or other thing, floating or being in any part of any such port, which in his opinion obstructs or impedes the free navigation thereof or the lawful use of any pier, jetty, landing place, wharf, quay, dock, mooring or other work on any part of the shore or bank which has been declared to be within the limits of the port, and is not private property.

(2) The owner of any such timber, raft or other things shall be liable to pay the reasonable expenses for the removal thereof and if such owner or any other person has without lawful excuse caused any such obstruction or impediment, or caused any public nuisance affecting or likely to affect such free navigation or lawful use, he shall also be punishable with a fine which may extend to Ten pounds.

(3) The Port Captain or Port Officer may cause any such nuisance to be abated.

Recovery of expenses of removal.

10. If the owner of any such timber, raft or other things, or the person who has caused any such obstruction, impediment or public nuisance as is mentioned in the last foregoing section, neglects to pay the reasonable expenses incurred in the removal thereof, within one week after demand, or within fourteen days after such removal has been notified in such manner as the Port Captain or Port Officer directs, the Port Captain or Port Officer may cause such timber, raft or other thing, or the materials of any public nuisance so removed, or so much thereof as may be necessary to be sold by public auction and, may retain all the expenses of such removal and sale out of the proceeds of the sale, and shall pay the surplus of such proceeds, or deliver so much of the thing or materials as may remain unsold to the person entitled to receive the same; and, if no such person appears, shall cause the same to be kept and deposited in such manner as the Port Captain or Port Officer may direct; and may, if necessary, from time to time realise the expenses of keeping the same together with the expenses of sale by a further sale of so much of the thing or materials as may remain unsold.

11. If any vessel hooks or gets foul of any of the moorings laid down by the authority of the Port Captain or Port Officer in such port, the master of the vessel shall not, nor shall any other person, except in case of emergency, lift the buoy or mooring for the purpose of unhooking or getting clear from the same without the permission of the Port Captain or Port Officer and the Port Captain or Port Officer on receiving notice of such accident may assist and superintend the clearing of such vessel; and, the master of such vessel shall, upon demand pay such reasonable expenses as may be incurred in clearing the same.

Fouling of
moorings.

(2) Any master or any other person offending against the provision of this section shall, for every such offence, be punishable with a fine which may extend to Ten pounds.

12. (1) If any vessel is wrecked, stranded or sunk in any such port so as to impede or be likely to impede navigation, the Port Captain or Port Officer may cause the vessel to be raised, removed or destroyed.

Raising or
removal of
wreck
impeding
navigation.

(2) Any property recovered through this action, if claimed, will be returned to the person proving the right to claim, upon payment by him of the expenses incurred by the Port Captain or Port Officer plus 20 per centum of the amount.

(3) If unclaimed, the Port Captain or Port Officer may sell the property by public auction forthwith if the property is of a perishable nature, and if not so, then at any time not less than six months after the recovery thereof.

(4) The expenses and further sum aforesaid shall be payable to the Port Captain or Port Officer out of the sale proceeds of the property and the balance shall be paid to the person entitled to the property recovered. Provided that such person makes his claim within one year from the date of sale.

13. (1) The Port Captain or Port Officer or any person generally or specially authorised by him may, whenever he suspects that any offence against this Ordinance has been or is about to be committed, or whenever it is necessary for him to do so in the performance of any duty imposed upon him by this Ordinance, either alone or with any other person or persons, board any vessel or enter any building or place, within the limits of any port subject to this Ordinance.

Power to
board vessels
and enter
buildings

(2) If the master of the vessel or any person in possession or occupation of the building or place, without lawful excuse, refuses to allow any such person as is mentioned in sub-section (1) to board or enter such vessel, building or place in the performance of any duty imposed upon him by this Ordinance, he shall for any such offence be punishable with a fine which may extend to Twenty pounds.

14. The Government of the Colony and Protectorate of Kenya shall not be responsible for any act or default of the Port Captain or of the Port Officer of any port subject to this Ordinance or of any Deputy or Assistant of any of the authorities aforesaid, or of any person acting under the control or direction of any such authority, or for any act or default of any pilot.

Indemnity of
Government
against act or
default of
Port Officials

15. (1) Port and light dues shall be levied on vessels entering any port at such rates and in such manner as the Governor-in-Council may order by notice in the Gazette.

Levy of Port
dues.

(2) Within any port fees shall be charged for piloting, berthing, mooring and other services rendered to vessels at the rates the Governor-in-Council may by notice in the Gazette direct.

(3) Fees shall be charged in respect of any licence, permit, certificate or any other matter carried out in pursuance of this Ordinance, at such rates as the Governor-in-Council may by notice in the Gazette direct.

16. All acts, orders or directions by this Ordinance authorized to be done or given by the Port Captain or Port Officer may, subject to his control be done or given by any deputy or assistant of such Port Captain or Port Officer.

Exercise of
powers of
Port Captain
by Assistants.

Service of
written notices
of directions.

17. Any written notice of a direction given under this Ordinance which may be left for the master of a vessel with any person employed on board thereof, or fixed on a conspicuous place on board of the vessel shall, for the purposes of this Ordinance, be deemed to have been given to the master.

Inspection of
Rules.

18. A copy of every rule or notice issued in pursuance of the provisions of this Ordinance and published in the Gazette shall be kept in the office of the Port Captain and of every Port Officer and shall there be open at all reasonable times to the inspection of any person without payment of any fee.

Vessels
entering or
leaving
Mombasa Port
must have
pilot on board.

19. (1) No vessel of the measurement of 200 tons net register or upwards may enter, leave, be moored or berthed in the port of Mombasa without having a pilot on board, provided always that the Port Captain may by writing under his hand exempt any particular vessel from the operation of this section either generally or on a special occasion.

Penalty.

(2) Any contravention of this section shall render the owner, agent, or master of a vessel so contravening liable in respect of each contravention to a fine not exceeding Two hundred pounds or to imprisonment not exceeding one year, or to both such fine and imprisonment, and, in addition to such punishment, to pay such pilotage fees as would have been payable under Schedule 2 to the Port Rules, 1922, had a pilot been employed, and in default of payment of such sum, within such time as may be specified, to imprisonment not exceeding three months.

Penalties for
disobedience of
Rules and
orders of
Government.

20. Any contravention of this Ordinance or of any Order or Rule, issued thereunder not otherwise specially provided for shall render the person so contravening liable in respect of each offence to a fine not exceeding Fifty pounds or to imprisonment not exceeding a period of six months or to both such fine and imprisonment.

Offences, how
triable and
Penalties, how
recoverable.

21. All offences against this Ordinance may be tried by a Magistrate of the 1st or 2nd class and, any Magistrate may, by warrant under his hand cause the amount of any fine imposed upon the owner or master of any vessel, for any offence committed on board of the vessel or in the management thereof or otherwise in relation thereto, whereof the owner or master is convicted, to be levied by distress and sale of the vessel and tackle, or so much thereof as is necessary.

Ascertainment
and recovery
of expenses
and damages
under this
Ordinance.

22. If any dispute arises as to any sum of money to be paid in pursuance of the provisions of this Ordinance or the Rules issued thereunder such dispute shall, unless otherwise provided, be determined by a Magistrate of the 1st or 2nd class upon application made to him for that purpose by either of the disputing parties and any sum adjudged by such Magistrate to be payable shall thereupon be a civil debt recoverable summarily.

Magistrate to
determine the
amount to be
levied in case
of dispute.

23. If any dispute arises concerning the amount leviable by any distress or pursuant to any attachment under this Ordinance, or the costs payable under the last foregoing section, the person making the distress or executing the attachment may detain the goods distrained upon or attached, or the proceeds of the sale thereof if such goods have already been sold, until the amount to be levied has been determined by a Magistrate as hereinbefore provided who, upon application made to him for that purpose, may determine the amount and award such costs to be paid by either of the parties to the other of them as he thinks reasonable, and payment of such costs, if not paid on demand, shall be recoverable as a civil debt recoverable summarily.

Power to make
Rules.

24. The Governor-in-Council may make Rules for the carrying out of the provisions of this Ordinance and for the better regulation of the seaports and navigable channels of the Colony and Protectorate.

Repeal.

25. The Port Regulations dated September 13th, 1899, and the Queen's Regulations under Article 45 of "The East African Order-in-Council, 1897," are hereby repealed without prejudice to anything done thereunder.

A Bill

Intituled

An Ordinance to Provide for the Deportation of Offenders and Dangerous Persons.

1. This Ordinance may be cited as "The Deportation Ordinance, 1922."

Short title.

2. The word "Court" means the Supreme Court or any Sub-ordinate Court of the 1st or 2nd Class.

Definitions.

5 3. (1) Where a person is convicted of a cognizable offence, the Court may in addition to, or instead of, any other punishment to which he is liable, recommend to the Governor that he be deported.

Deportation in case of cognizable offence.

10 (2) Where, upon any sworn information, it appears to a Court that there is reason to believe that any person is about to commit a breach of the peace, or that his conduct is likely to produce or excite a breach of the peace, the Court may order him to give security in two or more sureties for peace and good behaviour, and in default, may recommend to the Governor that he be deported.

in default of security for the peace.

15 4. (1) Where it is shown by evidence on oath to the satisfaction of the Supreme Court that any person is conducting himself so as to be dangerous to peace and good order, or is endeavouring to excite enmity between any section of the people of the Colony and His Majesty, or is intriguing against constituted power and authority in the Colony, the said Court may recommend to the Governor that he be deported.

In case of dangerous conduct.

20 (2) A person charged under either Sub-section (2) of the last preceding section or under Sub-section (1) hereof shall be given an opportunity of showing cause why he should not be ordered to give security or why he should not be deported as the case may be.

5. Where a recommendation for deportation has been made under any of the preceding sections, the person in respect of whom such recommendation has been made shall be detained in custody pending the decision of the Governor.

Detention in custody pending Governor's decision.

30 6. If after considering any such recommendation as aforesaid in Council the Governor shall decide that in the interest of peace, order and good government, an order of deportation should be made, he may by writing under his hand and seal order the person to be deported to such part of the Colony as he may direct, or to such part of His Majesty's dominions, or of any country under His Majesty's protection, as he may, with the concurrence of the Secretary of State, direct.

After consideration in Council Governor may make an Order of Deportation.

40 7. If after such consideration as aforesaid the Governor shall decide that no order of deportation shall be made, he shall cause the Court to be so informed, and the Court may, in the case where a recommendation has been made under Section 3 (1) instead of imposing any other punishment, deal with the case as if no such recommendation had been made, and make such order of imprisonment or other punishment as may be authorised by law.

or withhold such order and remit the case to the Court.

Deportation of persons undergoing sentence.	8. If a person ordered to be deported is sentenced to any term of imprisonment, such sentence of imprisonment shall be served before the order of deportation is carried into effect.	
Duration of deportation order.	9. An order of deportation may be expressed to be in force for a time to be limited therein, or for an unlimited time, and may require the deported person to report himself to the nearest Administrative Officer or Officer of Police at intervals of not less than thirty days.	5
Order to be sufficient authority for detention.	10. An order of deportation shall be sufficient authority to all persons to whom it is directed or delivered for execution to receive and detain the person therein named and to carry him to the place named.	10
Penalties for breach of order.	11. If a person leaves or attempts to leave the district or place to which he has been deported, while the order of deportation is still in force, without the written consent of the Governor, which consent may be given subject to any terms as to security for good behaviour or otherwise as to the Governor may seem good, or wilfully neglects or refuses to report himself as ordered, such person is liable to imprisonment for six months and to be again deported on a fresh warrant under the original order, or under a new order.	15 20
Rules	12. The Governor-in-Council may make rules for the better carrying out of the provisions of this Ordinance.	
Application	13. This Ordinance shall not apply to the Protectorate.	

A Bill

Intituled

AN Ordinance to further Amend the East Africa Post Office Savings Bank Ordinance, 1909.

Short title.	1. This Ordinance may be cited as "The Post Office Savings Bank (Amendment) Ordinance, 1922," and shall be read as one with the East Africa Post Office Savings Bank Ordinance, 1909, (hereinafter referred to as "the Principal Ordinance").	
Amendment to Section 4 of Principal Ordinance.	2. Section 4 of the Principal Ordinance shall be and is hereby amended by the deletion of the word "rupee" wherever such word occurs in the said section and the substitution therefor of the word "shilling."	5
Amendment to Section 10 of Principal Ordinance.	3. Section 10 of the Principal Ordinance shall be and is hereby amended by the deletion of the words "ten rupees, or some multiple thereof," and the substitution therefor of the words "twenty shillings."	10

A Bill

Intituled

An Ordinance to Provide for Borrowing Money by the Issue of Treasury Bills.

WHEREAS it may be expedient from time to time that the Governor or the Crown Agents for the Colonies on his behalf should borrow money by the issue of Treasury Bills in London. Preamble.

And whereas it is expedient to provide in one Ordinance the terms and conditions applicable to the borrowing of money by the issue of such bills.

Be it therefore 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 Colonial Treasury Bills Ordinance, 1922." Short title.

2. The Governor whenever authorised thereto by a resolution of the Legislative Council may request the Crown Agents for the Colonies to borrow by the issue in London of Kenya Government Treasury Bills sums not exceeding the amount specified in such resolution; and the Crown Agents may also, with the approval of the Governor, borrow from time to time by the issue of such Treasury Bills such sums as may be required to pay off at maturity Bills already lawfully issued by them and outstanding. Power to borrow by the issue of Treasury Bills.

3. The principal monies represented by the Treasury Bills issued under the provisions of this Ordinance are hereby charged upon and shall be payable out of the general revenues and assets of the Colony and Protectorate. Principal of Bills.

4. The proceeds of the issue of the Treasury Bill shall be paid into the General Account of the Colony and Protectorate with the Crown Agents for the Colonies. Proceeds of Bills.

5. Every Treasury Bill issued under this Ordinance shall be for the sum of £1,000 or a multiple of £1,000 and shall be payable at par at such time or times as the Governor or the Crown Agents for the Colonies on his behalf shall before the issue of such Treasury Bill fix and determine, but not later than one year from the date of issue. Amounts and period of currency of Bills.

6. The Governor shall appropriate out of the general revenues of the Colony and Protectorate the necessary sum to pay the principal represented by the Treasury Bills and shall remit that sum to the Crown Agents for the Colonies in London at such time as will enable them to pay the said principal at their office in London when the Treasury Bills fall due. Repayment of Bills.

7. Upon repayment of the principal monies represented by the Treasury Bills, the Bills shall be delivered up to the Crown Agents, to be by them cancelled and forwarded to the Government of the Colony and Protectorate of Kenya. Cancellation of repaid Bills.

A Bill

Intituled

An Ordinance Relating to Mining.

PART I.

PRELIMINARY.

Short title and
commence-
ment.

1. This Ordinance may be cited as the "Mining Ordinance, 1922," and shall come into operation on such date as the Governor by notice in the "Gazette" shall determine.

Definition.

2. In this Ordinance unless there be something repugnant in the subject or context:—

"Alluvial" means any loose soil, earth or other substance containing or supposed to contain gold or precious stones, not being a seam, lode, quartz vein, cement or banket.

"Coal" includes all descriptions of coal, lignite and carbonaceous shale.

"Commissioner of Mines" shall include a person appointed to act for the Commissioner of Mines.

"Common minerals" includes sand, clay, marble, stone, lime, diatomite, murrum, gypsum, mineral waters, salt, soda and such minerals as are declared from time to time to be common minerals by the Commissioner of Mines by notice under this Ordinance.

"Contiguous claims" mean claims adjoining or touching each other at a common point on their boundaries or that the land between any two points on their boundaries is wholly occupied by roads, railways, rivers, dedicated ground, water, or land set aside for public purposes.

"Gold" means as well as gold any substance containing gold, or having gold mixed therewith, or set apart for the purpose of extracting gold therefrom.

"Inspector" means an Inspector of Mines appointed for the purposes of this Ordinance.

"Land owner" includes also a mortgagee, a grantee and lessee, and a person occupying land under a licence from the Crown.

"Mine" as a noun, includes all lands and works on, in, or by which mining is carried on.

"Minerals" and "all minerals" includes metals and precious stones, but does not include coal, oil, or common minerals.

"Oil" includes all descriptions of mineral oil, natural gas, bitumen, asphalt and other bituminous substances with the exception of coal.

"Prospecting" includes all modes of prospecting for minerals, common minerals, and coal.

"Banket" means a sedimentary or foliated deposit interbedded among or superincumbent on the strata of the country and containing or supposed to contain gold.

"Placer" means alluvial deposit of ancient date *i.e.*, not now in process of formation, containing or supposed to contain gold.

"Mining" or "to mine" includes all modes of prospecting and mining for obtaining treating and making merchantable minerals, common minerals, and coal.

"Mining lease" means a lease issued under this Ordinance for minerals other than common minerals or coal.

"Native Reserves" includes all land which it is considered by the Government is required by and should be reserved for natives whether gazetted or not.

"Colony" means the Colony and Protectorate of Kenya.

"Prescribed" means prescribed by this Ordinance.

"Private land" shall include lands privately owned and land the subject of a grant, lease or licence from the Crown.

"Salt licks" means those deposits of salt or other mineral or common mineral which have been or are being used as salt licks for cattle whether privately owned or not.

"European" means any person of European birth or descent.

3. The several enactments mentioned in Schedule A hereto, are hereby repealed, but such repeal shall not affect any right, interest, or liability already created, existing or incurred, nor anything lawfully done or suffered under any enactment hereby repealed, and any proceedings in respect of such right, interest or liability may be carried on as if such repeal had not taken place. Repeal.

4. The provisions of this Ordinance shall extend to all lands situate in the Colony and Protectorate.

Provided, however, nothing herein contained shall be deemed to authorise any person to prospect or mine on or under:— Application and prohibited areas.

(a) Lands dedicated or set apart for any public purpose.

(b) Lands held under grants or leases giving the holder rights of working the gold, precious stones, minerals, common minerals and coal which are recognised by the Governor.

(c) Land situate within any township or municipal area except with the consent of the owner of the land, and of the Governor or municipal authority.

(d) Land over which exclusive prospecting rights have been or may be granted by the Governor or by or on behalf of His Majesty and during such time as such rights shall be subsisting except by, or on behalf of, the persons to whom such rights shall have been granted.

(e) Land reserved for the purposes of any Railway or situate within 100 yards of any Railway, except with the consent of the Railway Administration.

(f) Land the site of or within 300 yards of any building or the site of or within 500 yards of any artificial dam or reservoir, the property of the Crown or of the Government, except with the sanction of the Governor.

(g) Land lawfully and *bona fide* used as a yard, garden, cultivated field or as the site of any building or artificial dam or reservoir, or land within 300 yards of any building or within 500 yards of any artificial dam or reservoir and the property of or leased by the owner of such building, artificial dam or reservoir, except with the consent of the owner and occupier of the land; provided, however, such exemption shall cease upon payment of compensation to the land owner for the loss resulting from the cesser of such exemption, such compensation, if not otherwise agreed upon, to be determined by arbitration. The person desiring the cesser of such exemption and the land owner shall be deemed parties to such arbitration.

(h) Lands declared by the Governor by notice in the "Gazette" to be exempt from the operation of this Ordinance.

(i) A street, road or highway without the consent in writing of the Governor or of the Municipal Corporation or other public body having the control thereof.

(j) Land within a Native Reserve except with the consent in writing of the Commissioner of the Province within which the Reserve is situate and on such conditions as may be prescribed.

(k) Salt licks, except as prescribed.

(l) Closed districts, except with a licence from the proper authority.

Unauthorised
mining.

5. Any person who prospects or mines without being authorised to do so by virtue of this Ordinance or of some enactment theretofore in force or without the licence or authority of the Governor, shall be guilty of an offence, and shall, on conviction, be liable to pay for each offence a penalty not exceeding twenty shillings for every day on which he shall so prospect or mine.

PART II.

DEPARTMENTAL AND OFFICIAL.

Commissioner
of Mines.

6. There shall be a Commissioner of Mines to be appointed from time to time by the Governor and such Commissioner of Mines or the officer for the time being acting for him shall have charge of the administration of this Ordinance and of the Department of Mines.

Appointment
of Wardens,
etc.

7. The Governor may appoint such Wardens, Inspectors, Registrars, and other officers as may be necessary for the purposes of this Ordinance.

Jurisdiction of
Commissioner
in Suits.

8. (1) The Commissioner of Mines may hear and determine in a summary way all suits concerning any right, claimed in, under, or in relation to a prospecting claim or prospecting licence, or any advantage thereof or liability thereunder, or any contract in respect thereof.

(2) The jurisdiction of the Commissioner of Mines shall extend not only to cases where the litigants are the parties originally interested in the cause of suit, but to cases where the title of litigants is derived from or through any of such parties.

Power of
hearing.

9. The Commissioner of Mines may decide any suit, and any matter arising therein, in such a manner as may be just, and may make and give all orders and directions necessary for enforcing his decisions, and may award reasonable costs.

10. The mode of proceeding in a suit before the Commissioner of Mines shall be as prescribed.

Commissioner's
order need not
be formally
drawn up.

11. The order or decision of the Commissioner of Mines need not be formally drawn up, but the record in books, which he is hereby required to keep for the purpose, shall be conclusive evidence of the order or decision and any person may obtain a copy of the record on payment to the Commissioner of Mines of the prescribed fee.

Commissioner
may order
minerals, etc.
to be seized.

12. The Commissioner of Mines, upon the hearing of a suit, may cause any gold or precious stones, minerals, common minerals, coal or oil to be summarily seized and delivered to the person entitled thereto.

Inspection by
Commissioner.

13. The Commissioner of Mines or any Inspector or any person authorised by the Commissioner of Mines, may at all reasonable times, enter and inspect any mine held under a claim or mining lease, and examine and take extracts from all books, accounts, vouchers, and documents relating thereto, or to any gold or precious stones, minerals, common minerals, coal, or oil obtained therefrom.

14. The law for the time being regulating proceedings before and the powers of a Magistrate of a Subordinate Court of a First or Second Class in the exercise of its civil jurisdiction shall, so far as practicable, and subject to any modifications, alterations, or additions which may be prescribed, apply to proceedings before the Commissioner of Mines and to the enforcement of his decisions in like manner as if such decisions were the decisions of a Magistrate of a Subordinate Court of a First or Second Class.

Law regulating proceedings before, and enforcement of orders of, the Commissioner.

15. There shall be an appeal from any determination in any suit, of the Commissioner of Mines, or from any order of dismissal, which appeal shall be to the Supreme Court, and shall be conducted in manner provided for an appeal from a Magistrate of a Subordinate Court of a First or Second Class.

Appeal.

16. (1) Nothing in the preceding sections contained shall be deemed to prevent the holder of a prospecting licence from bringing in any of the ordinary Court of the Colony and Protectorate any suit which might be heard and determined by the Commissioner of Mines. Provided, however, that whereas it is the intention of this Ordinance that all suits brought by the holder of a prospecting licence concerning any right, claimed in, under, or in relation to a prospecting licence or a prospecting claim or any advantage thereof or liability thereunder, or any contract in respect thereof shall, so far as may be proper and convenient, be heard and determined by the Commissioner of Mines, the Supreme Court or any Court subordinate thereto before which any such suit as aforesaid may be brought, may, on the application of the defendant or if there be more defendants than one, on the application of any one or more of the defendants, and if satisfied that the suit could be properly and conveniently heard and determined by the Commissioner of Mines, direct that the suit be brought before the Commissioner of Mines.

Jurisdiction of ordinary Courts not excluded.

(2) The Governor may, by notice in the "Gazette," confer upon any Warden the powers and jurisdiction vested in the Commissioner of Mines by Sections 9 to 15 (both inclusive) of this Ordinance, and may in like manner define the area within which such Warden shall exercise such powers and jurisdiction.

Governor may confer upon a Warden jurisdiction in suits.

PART III.

ACQUISITION OF RIGHTS OF PROSPECTING AND MINING.

DIVISION I.—GENERAL.

17. Nothing contained in this Ordinance shall confer any right of searching for, prospecting, obtaining, treating, refining, buying or selling oil.

18. Prospecting and mining shall be permitted pursuant to this Ordinance by virtue of:—

Rights.

- (a) A prospecting licence.
- (b) A sole exploration licence.
- (c) A protection area.
- (d) A registered claim.
- (e) A Miner's right.
- (f) A mining lease, or coal lease.

19. Mining rights may be acquired by non-Europeans according to the current land policy of the Colony. That is to say, one race of non-Europeans may acquire mining interests in those districts where that race is permitted by the land law for the time being to acquire interests in land; provided that non-Europeans may acquire mining rights in any locality for common minerals.

Non-Europeans.

DIVISION II.—PROSPECTING LICENCES.

20. A prospecting licence, in a prescribed form, to be in force for one year from the date hereof, shall be issued by:—

Prospecting licence.

- (a) The Commissioner of Mines, or
- (b) A Warden.

21. Applications for prospecting licences shall be in a prescribed form.

Applications.

Not
transferable.

22. A prospecting licence shall not be transferable.

Companies.

23. When a prospecting licence is issued to an individual representing a Company, Syndicate, Partnership or other body of persons, it shall be so stated on the licence, and the licence shall be deemed to be held by the body represented.

Privileges.

24. A prospecting licence shall authorise the holder thereof—

(a) To prospect for any minerals, common minerals, or coal, the property of the Crown.

(b) To peg claims and protection areas as prescribed.

(c) To take action in the Court of the Commissioner of Mines.

Black list.

25. The Governor may forbid the issue of a prospecting licence to any person, or may cancel a prospecting licence held by any person, on conviction of an offence under this Ordinance.

DIVISION III.—SOLE EXPLORATION LICENCES.

Sole licences.

26. The Governor may, at his sole discretion, grant sole exploration licences to search for minerals, common minerals, or coal, over any area and subject to such fee terms and conditions as he may think fit, provided that the purpose for which such licence is granted is of great public importance, and that the mineral, common mineral, or coal for which the licence is granted would be, if found, of great public or imperial utility.

Proof of
means.

27. Every application for a sole exploration licence must be accompanied by proof of means to the extent of one hundred shillings for each square mile of the area under application.

Privileges.

27. Every application for a sole exploration licence must be the sole right of prospecting within the area concerned for the mineral, common mineral, or coal mentioned in the licence, and the sole right during the currency of the licence to peg claims as prescribed.

Extension of
term.

29. The Governor may, by notice in the "Gazette," extend the term of any sole exploration licence.

Notice in
Gazette.

30. Notice of every sole exploration licence granted shall be published in the "Gazette."

DIVISION IV.—PROTECTION AREAS.

Protection
area.

31. The holder of a prospecting licence may erect a prospecting notice in the prescribed form. The erection of such a notice shall confer upon the licensee the exclusive right of prospecting and of pegging claims within an area of 1000 feet from the notice in all directions for a period of thirty-one days from the date of erection. The area so affected shall be known as a protection area.

Registration.

32. The holder of a protection area shall cause the same to be registered in the prescribed manner.

Limitation.

33. No holder of a protection area shall establish another protection area until the protection area already held by him shall have been abandoned as such.

DIVISION V.—CLAIMS.

Validity.

34. The pegging of any claim shall be invalid in the following circumstances:—

(a) If the person pegging does not hold a prospecting licence at the time of pegging.

(b) If the person in whose name the claim is pegged does not hold a prospecting licence at the time of pegging.

(c) If the claim is pegged between the hours of 6 p.m. and 6 a.m.

(d) If the claim pegged is not a rectangular parallelogram, the length of the longer side being not more than twice the length of the shorter side.

(e) If the claim is not pegged in the prescribed manner.

35. Claims shall not exceed the following dimensions:— Size of claims.

(a) A gold claim, reef or banket, 300 feet in length along the supposed line of the reef or banket, and 600 feet in width across the line.

(b) A gold or precious stone claim, alluvial or placer, 100 feet by 100 feet.

(c) A precious stone claim, other than alluvial, twenty acres.

(d) A mineral claim, forty acres.

(e) A coal claim, six hundred and forty acres.

(f) A common mineral claim, as prescribed.

36. The owner of a claim of whatever nature, within 30 days after the claim is first pegged out, or within such additional time (if any) as the Commissioner of Mines may, on the ground of sickness, absence or other like disability of any such owner, or for other reasonable cause, allow, shall register the claim in the office of the Senior Commissioner of the Province wherein the claim is situated, or with the prescribed officer. Registration of claim.

37. If any person neglects to register his claim in the manner and time aforesaid he shall forfeit all rights in respect thereof. Neglect to register.

38. Any person who shall, by false representations or fraudulent concealment of facts, obtain registration of any claim under this Ordinance, shall forfeit his rights in the claim in respect of which such registration has been obtained, and be liable to a penalty not exceeding one thousand five hundred shillings. False representations.

39. The ownership of a claim shall confer the following rights in respect thereof:— Rights.

(a) As to a gold, precious stones or mineral claim, the preferential right to a mining lease.

(b) As to a coal claim, the preferential right to a coal lease.

(c) As to a common mineral claim, the preferential right to a miner's right.

40. The holder of a claim of whatever nature shall pay an annual rent at the rate of twenty shillings to the Commissioner of Mines for each claim. Such rent shall be payable in advance on the first of January in each year. Rent.

41. No area which is pegged out under one class of claim shall be pegged out, except by the owner of such claim or with his sanction, under the same or any other class of claim unless forfeiture of the first mentioned claim has been declared or such claim has been abandoned. Overpegging.

42. No claim shall be pegged out on any area held under a mining lease except by the lessee or with his permission.

43. No claim shall be pegged out upon any area which is being lawfully mined, so as wholly or partially to come within fifty yards of a shaft or sinking in actual use for the purpose of such mining without the consent in writing of the person mining. No claim to be pegged out within fifty yards of a shaft.

44. Whenever the same area shall be included in different classes of claims, the different classes shall have priority in the following order:— Priority of claims.

(a) Alluvial or placer gold or precious stones claim.

(b) A precious stones claim, other than alluvial, a gold claim, reef or banket.

(c) Mineral and coal claims.

but the owners of all claims shall comply with prescribed requisites for securing to each the benefit of his claim, and for preventing unnecessary interference with any right previously existing.

45. The Governor may prescribe the working conditions to be observed on claims. Working conditions.

- Excess work. 46. Excess work on one claim shall be allowed to count towards the working conditions on contiguous claims under the same ownership.
- Assay. 47. No mineral, common mineral or coal may be exported from a claim except for assay purposes.
- Limitation. 48. The Governor may prescribe the number of claims to be held by one person.

DIVISION VI.—COMMON MINERALS.

- Miner's rights. 49. The Governor may make regulations to provide for the issue of a miner's right which will grant permission to a claimholder to export common minerals from his claim for any purpose, subject to the payment of royalties as prescribed.

DIVISION VII.—LEASES.

- Size. 50. The Commissioner of Mines may with the approval of the Governor grant to the holder of a claim a mining lease over the following maximum areas:—
 (a) Gold or precious stones: twenty acres.
 (b) Minerals other than gold or precious stones: forty acres.
- Size of coal lease. 51. The Commissioner of Mines may with the approval of the Governor grant to the holder of a coal claim a coal lease over a maximum of six hundred and forty acres.
- Coal. 52. The Governor may prescribe the terms and conditions under which a coal lease may be granted.
- Term. 53. A mining lease shall be for a term not exceeding ten years, and shall contain a proviso for renewal for further periods of ten years each upon proof by the lessee of compliance with the terms and conditions of the lease.
- Rent. 54. The annual rent under each mining lease shall be at the rate of two shillings per acre, payable in advance on the first of January in each year.
- Working conditions. 55. The Governor may prescribe the working conditions which are to be observed under a mining lease.
- Royalty. 56. The Governor may prescribe the royalties payable under a mining lease.
- Application for lease. 57. Every application for a mining lease shall be in the prescribed form.
- Survey. 58. So soon as an applicant for a lease is informed that a lease will be granted to him, he shall cause the land to be surveyed at his own cost under the direction of the Director of Surveys and shall supply the Commissioner of Mines also at his own cost with suitable plans for attachment to the lease.
- Rights. 59. A mining lease for gold or precious stones shall confer the right to mine, win and dispose of all minerals, subject to the payment of the prescribed royalties, provided that the mining lease for gold or precious stones is not granted over an area already held under a mining lease for minerals other than gold or precious stones.

PART IV.

PRIVATE LAND, NATIVE RESERVES AND SURFACE RIGHTS.

- Native Reserves. 60. For the purpose of this Ordinance Native Reserves shall be deemed to be private land, and the administrative authority for the time being shall be deemed to be the owner; provided that any monies received by that authority by way of compensation, fees or penalties, shall be devoted for the use of the tribe concerned.

61. Before the holder of a prospecting licence may enter private land to prospect, he shall, if called upon by the owner, deposit with the Commissioner of Mines a sum of ten pounds as security against the payment of grazing fees or against repair of damage to the land. Deposit for Prospecting.

62. So soon as the holder of a prospecting licence shall peg a claim or claims on private land, he shall, if called upon by the owner, deposit with the Commissioner of Mines the sum of two shillings for each acre pegged subject to a minimum deposit of ten pounds and a maximum deposit of fifty pounds. Such deposit shall be held against the payment of grazing fees or compensation for loss of land or against repair of damage to the land on abandonment. Deposit for claims.

63. In lieu of the deposits prescribed in Sections 61 and 62 hereof the holder of a prospecting licence may, with the approval of the land owner, enter into a bond with two sureties to be approved by the Commissioner of Mines in the sum of fifty pounds for himself and twenty-five pounds for each of the two sureties. Bond.

64. (a) No mining lease shall be granted over private land until the Commissioner of Mines is satisfied that compensation has been paid by the applicant to the land-owner, such compensation, if not otherwise agreed upon, to be determined by arbitration. Lease.

(b) No claim for common minerals may be pegged on private land except by the owner or with his consent in writing. The registration of a claim for common minerals on private land shall be evidence that the owner has given his consent and shall be sufficient authority for the Commissioner of Mines to issue a miner's right as prescribed. Common minerals.

65. A prospecting licence, claim, miner's right or mining lease under this Ordinance shall confer upon the holder surface rights only so far as may be absolutely required for or in connection with *bona fide* mining purposes. Whenever a disagreement shall arise between the owner, in the case of private land, and the holder of the mining privileges, in connection with surface rights, the same shall be determined by arbitration. Surface rights.

66. An owner of private land who shall be disturbed in his possession, or damaged or injured in any way by reason or in consequence of any right or power conferred by any lease of such land for mining purposes shall be entitled to claim from the lessee compensation in respect of such disturbance, damage or injury, the amount of which compensation shall, in all cases of disagreement, be determined by arbitration. Owner of private land entitled to compensation for disturbance etc.

67. A prospecting licence, claim, or mining lease shall confer upon the holder the following rights when engaged actively in prospecting or mining, namely:— Additional rights of a prospector.

(1) On unoccupied Crown land to take fuel and water for his domestic use provided, however, that he shall not have the right to cut any standing timber in any proclaimed forest area, or any reserved tree unless he shall have obtained permission in writing from the Conservator of Forests or other prescribed officer.

(2) On any land on which he is entitled to prospect to take for his domestic use water from any lake, river or stream, and, with the consent of the owner or occupier of private land or on tendering to the owner or occupier a reasonable sum in payment therefor, any fuel other than standing live timber.

68. The owner of a claim shall have the right to reside on his claim and of grazing on his claim for six horses or mules, or for sixteen oxen or donkeys free of charge on unoccupied Crown land, and if on any private lands on payment to the owner or occupier of the land where such licence is exercised of fifty cents per diem. Provided, however, that on private land the owner of the claim shall only exercise the rights conferred on him by this section on such portion of the claim as shall be indicated by the owner or occupier. Right of residence and grazing on claim.

If any question shall arise between the owner or occupier of the land and the owner of the claim as to the suitability of land indicated by the owner or occupier it shall be determined by the Commissioner of Mines or other prescribed officer.

Mining
lessees' rights
in respect of
standing
timber.

69. Mining rights granted in respect of private land shall not confer upon the lessee the right to cut timber on the lands the subject of the lease, except the removal of any tree which shall be necessary for or in connection with mining purposes. The holder shall, if required by the owner of the tree cut, pay to him the value of any tree and shall not without the consent of such owner be entitled to use the timber cut, unless and until he has paid or tendered such value.

A lease of land, other than private land or land situate within a proclaimed forest area, for mining, shall confer upon the holder the right to cut and utilise for or in connection with mining purposes any tree growing on the land the subject of the lease, provided, however, that the prescribed royalty shall be paid to the Forest Department in respect of any tree which may be protected by virtue of Rules issued under Section 13 of "The Forest Ordinance, 1911."

Whenever a lease for mining purposes shall be granted in respect of land situate within a proclaimed forest area, the holder may cut down any tree growing on the land the subject of the lease provided the removal of the tree is necessary for or in connection with mining purposes, but the holder shall pay to the Forest Department the prescribed royalty on any such tree. Unless the sole right to cut such tree has been granted under the Forest Ordinance, 1911, to some other person the holder may, on paying such royalty, sell or use the timber cut for any purpose he may think fit. If the sole right to cut such tree has been granted to some other person as aforesaid the holder shall pay to such person the value of the timber cut and on paying or tendering such value shall be at liberty to sell or use the timber for any purpose he may think fit.

No water to
be diverted
without
sanction.

70. No prospector claim holder or lessee under a mining lease shall divert water from any stream or lake or take water from any dam, race or reservoir without the sanction of the Commissioner of Mines, nor permit sludge or other noxious matter to flow to any stream, lake, dam, race or reservoir.

Pollution of
water
prohibited.

PART V.

ABANDONMENT OF MINING RIGHTS.

Claims when
deemed
abandoned.

71. A claim shall be deemed to be abandoned in the following circumstances:—

(a) If the claim has not been registered in the manner prescribed.

(b) If the Commissioner of Mines has declared forfeiture.

(c) If the holder has not produced satisfactory evidence of compliance with the working conditions prescribed.

(d) If the rent payable is not paid to the Commissioner of Mines within thirty-one days from the date when it became due.

(e) If the holder fails to render any prescribed return when due.

(f) If the holder shall notify the Commissioner of Mines in writing of his intention to abandon the claim.

Nothing in this section contained shall impose any obligation on the Commissioner of Mines to declare forfeiture of a claim.

Claim not
forfeited by
neglect of
hired
workmen.

72. No owner of a claim who employs hired labour to work the same shall be deemed to have abandoned or adjudged to forfeit such claim through any neglect, absence or omission on the part of any workman employed thereon by him, such neglect, absence or omission being without the knowledge of the owner. If after such notice in writing, as the Commissioner of Mines may consider reasonable in the circumstances of any case, to such owner, of the neglect, absence or omission of any hired workman, such neglect, absence or omission be continued, the owner shall be deemed to have abandoned his claim; such notice may be served personally or by sending the same to the last known place of abode of such owner, or by advertising the same in the "Gazette."

73. Any person who shall abandon mining or prospecting operations on any land shall forthwith fill in or secure to the satisfaction of the Commissioner of Mines or other prescribed officer all shafts, pits, holes and excavations in such a manner as to prevent persons or stock inadvertently entering the same. Any person who shall have failed to comply with the provisions of this section shall be liable to pay to the Commissioner of Mines, if on unoccupied Crown land, or to the land-owner if on private land, such sums as the Commissioner of Mines or other prescribed officer shall certify will be the cost of filling up or securing all shafts, pits, holes and excavations on the abandoned land. Restoration of surface.

74. The owner of any plant, machinery, engines, or tools of any forfeited or surrendered area shall have three months in which to remove such plant, machinery, engines, or tools, from the date of forfeiture or surrender, but shall not, under a penalty of not more than 3,000 shillings or less than 150 shillings for each such offence, be permitted to remove or to interfere with any timber in any mines. Owner may remove plant.

75. A lessee may surrender a mining lease, subject to the regulations.

76. All rights of surrender conferred by this Ordinance are subject to the rights of persons claiming from or under the lessee. Third parties.

PART VI.

TRANSFERS.

77. Prospecting licences and protection areas shall not be transferable. Prohibited.

78. Claims may be transferred as prescribed by regulation. Claims.

79. In the event of a claim being transferred in respect of which a deposit shall have been made under Sections 61 and 62 hereof, the deposit shall be deemed to have been made by the transferee and shall be held on his account. If a bond has been executed in lieu of a deposit, transfer of a claim shall render the bond null and void, and the transferee shall be required to execute a bond as prescribed, or to make a deposit in lieu thereof, if required by the land-owner. Private land.

80. A claim shall not be transferred to a party of a different race from the holder without the permission of the Governor. Different race.

81. A miner's right attached to a claim shall be deemed to be transferred to the transferee of the claim. Miner's right.

PART VII.

INSPECTION OF MINES.

82. An Inspector at all reasonable times by day or night, but so as not unreasonably to impede or obstruct the working of the mine may:— Powers of Inspector.

- (i) Enter, inspect, and examine any mine:
- (ii) Examine into and make enquiry respecting the condition and ventilation thereof, and all matters relating to the safety and health of the persons employed:
- (iii) Inspect and examine the state of the machinery used upon or in the mine, and the state of all plants, works, and ways:
- (iv) The Inspector shall, in case he finds any mine or any part thereof or any matter, thing, or practice in or connected therewith, to be defective, give notice in writing to the owner, agent, or manager of the mine stating particulars in which he considers such mine or any part thereof, or any matter, thing or practice, to be defective, and requiring the same to be remedied:
- (v) Inspect the storage of explosives upon any mine and direct in what manner the same shall be stored.
- (vi) Exercise all powers necessary for carrying this part of the Ordinance into effect.

Proceedings
on objection
to comply with
notice.

83. If the owner, agent, or manager of the mine objects to remedy the matter complained of in any notice under the last preceding section, he may within twenty-one days after the receipt thereof, send his objection in writing stating the grounds thereof, to the Commissioner of Mines, and thereupon the matter shall be submitted to and determined by the Commissioner of Mines, or by such officer as he may appoint on that behalf.

Proceedings
on failure to
comply with
notice.

84. If the owner, agent, or manager of the mine fail to comply with the requisition of the notice, where no objection is sent within the time aforesaid, or with the decision of the Commissioner of Mines or other officer as aforesaid within twenty-one days after the expiration of the time for objection or decision (as the case may be), he shall be liable to a penalty not exceeding ten thousand shillings.

Adjournment.

85. The Court, if satisfied that the owner, agent or manager has taken active measures for complying with the notice or decision of the Commissioner of Mines or other officer, but has not been able with reasonable diligence to complete the work, may adjourn any proceeding for punishing such offence, and if the works are completed within a reasonable time no penalty shall be inflicted.

Agreement not
to preclude or
exempt.

86. No person shall be precluded by any agreement from doing such acts as may be necessary to comply with the provisions of the last preceding three sections or be liable under any contract to any penalty or forfeiture for doing such acts.

Special
inquiry may
be directed.

87. The Commissioner of Mines may direct an Inspector to make a special inquiry and report with respect to an accident in or about a mine causing loss of life or personal injury, and shall cause such report to be made public at such time and in such manner as he thinks expedient.

Notice of
accident to be
given.

88. (1) Where in or about a mine, whether above or below ground, loss of life or serious personal injury occurs by reason of any accident whatever, the owner, agent or manager of the mine shall, within twenty-four hours next after the accident, send notice in writing of the accident, and of the loss of life or personal injury occasioned thereby, to the Commissioner of Mines or other prescribed officer, and shall specify in such notice the nature of the accident, and the number of persons killed and injured respectively.

Notice when
death results.

(2) Where any personal injury of which notice is required to be sent under this section results in the death of the person injured, notice in writing of the death shall be sent to the Commissioner of Mines within twenty-four hours after such death comes to the knowledge of the owner, agent or manager.

Penalty.

(3) Every owner, agent or manager who neglects to comply with this section shall be liable to a penalty not exceeding one thousand five hundred shillings.

Penalty for
refusing
means of
inspection.

89. Every owner, agent or manager of a mine who refuses or neglects to furnish an Inspector with the means necessary for making an entry, inspection, examination or enquiry under this Ordinance, in relation to such mine, shall be liable to a penalty not exceeding one thousand five hundred shillings or to be imprisoned, with or without hard labour, for any period not exceeding six months.

PART VIII.

GOVERNMENT PROTECTION AREAS.

Government
servant.

90. No person in the service of Government may peg a claim in his own name.

By whom
pegged.

91. Any person in the service of Government may peg a Government Protection Area for any minerals, common minerals, or coal, not exceeding six hundred and forty acres.

Gazette.

92. Notice of every Government Protection Area shall be published in the "Gazette" as soon as possible after the date of pegging.

93. A Government Protection Area shall be for a term of one year from the date of pegging, during which time the Government shall decide whether to work the area or whether to dispose of the rights of working the area. Term.

94. If during the currency of a Government Protection Area the Government decides to work the area, the term of that Government Protection Area shall be deemed to be indefinite and the Government shall have the right of working the area until notice is published in the "Gazette" of abandonment. Work by Government.

95. It shall be unlawful for any person to prospect or mine in a Government Protection Area without the consent of the Commissioner of Mines. Prospecting by Public.

96. In the event of revenue accruing to Government from a Government Protection Area the Governor may pay from such revenue as a reward to the servant who pegged the area, or to any person who gave information which led to the pegging of the area, such sum as he may think fit; provided that no reward shall be paid to any Government servant who pegs a Government Protection Area in the ordinary course of his duties. Reward.

PART IX.

MISCELLANEOUS.

97. Every holder of a claim or lease, other than an alluvial claim, shall half-yearly, in the months of January and July, furnish to the Commissioner of Mines or other prescribed officer, a full and true return, showing the quantity of stone or ore treated, and the quantity of gold, precious stones, minerals, common minerals and coal taken from such claim or lease during the preceding half year, and if default shall be made in compliance with this section, shall be liable, on conviction, to forfeit and pay a sum not exceeding three hundred shillings for every such default. Claim holders and lease holders to furnish half-yearly returns.

98. The rent reserved by any mining lease or applicable to any claim may be levied or recovered by or under the authority of the Commissioner of Mines, in like manner as rent is or shall be leviable or recoverable by law in cases where private persons only are concerned, and, in case such rent is leviable by distress, an order under the hand of the Commissioner of Mines shall be sufficient warrant and authority to distrain. This section shall not affect any other remedy for recovery of the rent. Rent, how recoverable.

99. In every case where the rent of land held under a mining lease is unpaid for more than three months after the day on which the rent is payable under such lease, the Governor may cancel such lease, and the Governor shall thereupon insert a notice in the Gazette declaring the lease to be forfeited, and in every case where the Governor has reason to believe that there has been a breach of any of the covenants or conditions contained in such lease, except in the case of non-payment of the rent as aforesaid, and except in cases of non-compliance with the labour conditions of any leases, the Governor shall give written notice to the lessee specifying the covenants or conditions which he has reason to believe are not being complied with, and notifying him that such lease will be liable to forfeiture at the expiration of one month from the date of such notice, unless in the meantime such covenants and conditions are duly complied with; and if at the expiration of such notice such covenants or conditions are still not being complied with by the lessee, the Governor may cancel such lease, and shall thereupon insert a notice in the Gazette declared the lease to be forfeited. In case of non-payment of rent or the non-compliance with the labour conditions, the Governor may exercise the power of cancellation without giving the written notice herebefore mentioned. Every such notice shall be conclusive evidence that the lease therein mentioned was legally cancelled and forfeited, and the land included therein may be dealt with as if such lease had never been granted. Forfeiture of lease.

Extension
after breach.

100. Whenever a lease for mining purposes is liable to forfeiture, and in the opinion of the Governor a less penalty than forfeiture would meet the justice of the case, the Governor may extend the period during which the lessee may perform the conditions of his lease, for such time and subject to such terms and conditions as he may think fit; and the terms and conditions so imposed by the Governor shall bind the lessee and all transferees, mortgagees, assignees, and other persons claiming through or under him, and the lease shall thereafter be construed as if such terms and conditions were inserted therein.

Persons under
sixteen not to
hold mining
lease, etc.

101. No person under the age of sixteen years shall hold, directly or indirectly, a mining lease or prospecting claim.

Arbitration.

102. Every arbitration in pursuance of this Ordinance shall be under the Arbitration Ordinance, 1913, and the parties to the submission shall, for the purposes of such arbitration and of such last mentioned Ordinance, be deemed to have entered into a written agreement to submit the differences in respect of the matter in question to the arbitration of two arbitrators, one to be appointed by each party.

Obstructing
Officer.

103. Any person who shall wilfully obstruct, hinder or assault, or resist a Warden or Inspector, or any person duly authorised by a Warden or Inspector or a person authorised by this Ordinance to exercise any right or power to execute any duty or shall wilfully disobey a Warden's order other than an order for the payment of money, or shall be guilty of contempt of the Commissioner of Mines or Warden acting in a judicial capacity, shall be liable to a penalty not exceeding one thousand five hundred shillings, or to imprisonment of either description for any period not exceeding six months.

Penalty for
removing
beacons, etc.

104. Any person who shall illegally alter, move, or remove any monument, post, boundary or survey mark erected in pursuance of this Ordinance or of any Regulations thereunder shall, on conviction, be liable to imprisonment of either description for a term not exceeding three years, or to a fine not exceeding three thousand shillings.

Infringement
of Ordinance

105. Any person who infringes a provision of this Ordinance for the infringement whereof no penalty is prescribed shall be liable for every offence to a penalty not exceeding three hundred shillings.

Imprisonment
in default of
payment of
penalty.

106. In every case of the adjudication of a fine or pecuniary penalty or amends under this Ordinance, and of non-payment thereof, the Court may commit the offender or person making default in payment to gaol for a term not exceeding twelve months, the imprisonment to cease on payment of the sum due, and any cost which may have been awarded.

PART X.

REGULATIONS.

Governor may
make
Regulations.

107. In addition to any power by this Ordinance conferred on the Governor to make regulations as to any special matter (which power shall, in every case, be implied for the purposes of any section in this Ordinance in which regulations are referred to, or in which the word "prescribed" is used) the Governor may, subject to the provisions of this Ordinance, make regulations, either of general or limited application. Such regulations may be for any of the purposes following:—

(i) For enforcing, under a penalty in case of default of not more than three thousand shillings, the proper ventilation and safe construction and timbering or supporting of all mining shafts, tunnels, drives or other mining workings used in mining; for prescribing the mode of inspection of all such mines, shafts, tunnels, drives, or workings, and the powers and duties to be exercised by Inspectors; and for determining and enforcing the distance at which all such shafts and other mining workings are to be kept from public and private roads, ways and passages, and from private land, dwellings, and other buildings:

(ii) For regulating the cutting, constructing, use, and maintenance of races, dams, reservoirs upon Crown land, or upon claims or lands held under leases for mining purposes under this Ordinance or any other Ordinance:

(iii) For prescribing the manner in which, and with what incident rights and obligations, and subject to what liabilities as to forfeiture and otherwise, any claim or class of claims, business or residence areas, race, dam or reservoir or any water taken or diverted by virtue of any licence, shall be taken possession of, held, occupied, used, worked or transferred:

(iv) For determining the order of priority among the holders of claims entitled to the use of any water; how such priority is to be regulated and under what conditions and circumstances:

(v) For enforcing and regulating the drainage of claims and of lands held under leases for mining purposes heretofore or hereafter granted:

(vi) For regulating the mode in which the rights and privileges of the owners of claims, and of races, dams, reservoirs, and easements, and of lands occupied under this Ordinance for residence or business, may be exercised or enjoyed, and limiting, qualifying, or restricting the exercise and enjoyments of such rights and privileges; and generally for the protection of such owners in the exercise and enjoyment of the rights, privileges, and interests conferred by this Ordinance:

(vii) For preventing the accumulation, and for the removal to some convenient place, of sludge, tailings and other refuse matter oozing or flowing from or connected with any land held or occupied under this Ordinance, and of waste water; and for the making of channels for any of the purposes aforesaid; and for otherwise regulating as between claims, such oozing, flowing and running to waste:

(viii) For the protection from injury, destruction, and unlawful removal of races, drains, dams, and reservoirs used or enjoyed under this Ordinance, and of the water therein, and of pegs, posts, fences, and notices, and of plant or appliances used for in connection with mining, and for the protection from obstruction of such races and dams, and of channels, drains, creeks, and rivers, used for mining purposes:

(ix) For regulating the mode of construction and the material used in construction, and the strength of embankments of dams and reservoirs used or to be constructed for or in connection with mining purposes:

(x) For the construction and keeping in repair of suitable bridges or other crossings over races, channels, or drains used for mining purposes cut across roads or thoroughfares or over such races, channels, or drains over which such roads or thoroughfares shall be carried, and for making proper approaches to such bridges or crossings, and for determining the width of such bridges, crossings and approaches:

(xi) For making and keeping in repair and for regulating the width and formation of private ways and passages, used for mining purposes over claims or races, or any lands used in connection with mining under this Ordinance, or business carried on under business licences, and for regulating and imposing conditions on the right to change the direction of any such way or passage, and for the protection of the same from injury or obstruction by the leaving of felled or fallen timber or other obstruction, or any waste or injurious matter thereon:

(xii) For the prevention of nuisances in and about residences or places of business held under this Ordinance, and for cleansing and keeping clean the same:

(xiii) For securing the baling of water from mines so as to prevent injury from such water to any mining workings:

(xiv) For preventing the defiling of or wasting of water used for domestic purposes, or in any stream, and for determining whether any and what stream, waterhole, spring, or other depository of water shall be reserved for domestic use, and the mode of such reservation:

(xv) For ensuring the fencing and protection of mines and works for the safety of man and beast:

(xvi) For compelling contributions by parties benefitted of a fair share of the cost of pumping in cases where pumping in one mine benefits other mines:

(xvii) Providing for the survey of claims and of lands applied for under this Ordinance for purposes of mining, business or residence, and prescribing the fees to be paid for such survey by the owner of the claim or applicant:

(xviii) Prescribing the surface rights which shall be conferred upon a lessee under or by virtue of a lease of lands other than private land for mining purposes:

(xix) Prescribing the conditions and restrictions to be imposed for the protection of the rights of a lessee of Crown land for mining purposes, or the purchaser, lessee, or licensee of surface rights over such land:

(xx) Prohibiting or regulating the cutting of timber on land the subject of a mining lease, and prescribing the compensation to be paid to the Governor or to the person having surface or forest rights by a lessee thereby authorised to cut timber:

(xxi) Conferring upon the Commissioner of Mines the power to execute for and on behalf of the Governor all or any leases which may be granted under this Ordinance and to exercise all or any power or to do any act or thing which may be exercised or done by the Governor by virtue of this Ordinance other than the power to make regulations or appointments:

(xxii) For fixing fees, prescribing forms, regulating registration and otherwise fully and effectually carrying out and giving force and effect to the various objects, purposes, powers, and authorities of this Ordinance, and guarding against evasions and violations thereof:

(xxiii) For prescribing the duties and powers of Wardens, Inspectors, Mining Registrars, and other officers to be appointed under this Ordinance:

(xxiv) For imposing penalties for breaches of the regulations not exceeding three thousand shillings for any one offence.

General words in this section shall not be limited or controlled by particular words.

SCHEDULE A.

LAW REPEALED.

The Mining Ordinance, 1912.

The Mining (Amendment) Ordinance, 1915.

A Bill

Intituled

An Ordinance to Provide for the Exploitation of certain Lands for Oil.

1. This Ordinance may be cited as the "Oil Production Ordinance, 1922," and shall come into operation on such date as the Governor, by notice in the "Gazette" shall determine.

Short title and commencement.

2. In this Ordinance unless there be something repugnant in the subject or context:—

Definitions.

"Commissioner of Mines" shall include any person appointed to act for the Commissioner of Mines.

"Land Owner" includes also a mortgagee, a grantee and lessee, and any person occupying land under a licence for the Crown.

"Minerals" is used in the sense as defined in the Mining Ordinance, 1922.

"Prospecting" includes all modes of prospecting or searching.

"Mineral Oil" includes bitumen, asphalt, and other bituminous substances with the exception of coal.

"Native Reserves" shall include all land which is considered by the Government to be required by and reserved for natives whether gazetted or not.

"Oil" includes all descriptions of mineral oil and natural gas.

"Private Land" includes lands privately owned and land the subject of a grant, lease or licence from the Crown.

"Salt Licks" means those deposits of salt or other mineral which have been or are being used as salt licks for cattle whether privately owned or not.

Application of
Ordinance.

3. The provisions of this Ordinance shall extend to all land situate within the Colony and Protectorate of Kenya.

Provided, however, that nothing herein contained shall be deemed to authorise any person to prospect or mine on or under:—

(a) Lands dedicated or set apart for any public purpose.

(b) Lands held under any title which gives the holder the rights of working oil, provided that those rights are recognised by the Governor.

(c) Land situate within any township or municipal area except with the consent of the owner and also of the Governor or municipal authority concerned.

(d) Land over which prospecting or mining rights have been granted by the Governor, or by or on behalf of His Majesty under the Mining Ordinance, 1922, or any repealed Mining Ordinance or amending Ordinance, and during such time as such rights shall be subsisting, except by or on behalf of the persons to whom such rights shall have been granted.

(e) Land reserved for the purpose of any railway or within 100 yards of any railway, except with the consent of the Railway Administration.

(f) Land the site of or within 300 yards of any building, or the site of or within 500 yards of any artificial dam or reservoir, the property of the Crown or of the Government, except with the sanction of the Governor.

(g) Private land, where the mineral rights are vested in the Crown, except with the consent of the owner of the land; provided that such exemption shall cease upon payment of compensation to the land-owner for the loss resulting from the cesser of such exemption, such compensation, if not otherwise agreed upon, to be determined by arbitration. The person desiring the cesser of such exemption and the land-owner shall be deemed parties of such arbitration.

(h) Lands declared by the Governor by notice in the Gazette to be exempt from the operations of this Ordinance.

(i) A street, road, highway, or road reserve, without the consent of the Governor or public body having the control thereof.

(j) Closed districts, except with a licence from the proper authority.

(k) Salt licks, except with special permission of the Commissioner of Mines.

Native
Reserves.

4. Native Reserves, for the purposes of this Ordinance shall be deemed to be private land, and the administrative authority of each Reserve for the time being shall be deemed to be the owner.

Unauthorised
prospecting.

5. Any person who prospects or mines for oil without being authorised to do so by virtue of this Ordinance or of some enactment theretofore in force or without the licence or authority of the Governor, shall be guilty of an offence, and shall on conviction, be liable to pay for each offence a penalty not exceeding one hundred shillings for every day on which he shall so prospect or mine.

Officers and
powers.

6. The officers for the time being appointed under the Mining Ordinance, 1922, or under any Ordinance amending or in substitution therefor, shall be deemed to be the officers appointed for the administration of this Ordinance; and the powers vested in them by virtue of the Mining Ordinance, 1922, shall be taken as full and sufficient authority for the administration of this Ordinance. These powers shall include the holding of the Commissioner of Mines Court, vesting of authority in Wardens, Inspectors, Registrars and other officers, surveys, inspections, recovery of rent fees penalties and monies payable under this Ordinance, and all powers necessary for the full administration of this Ordinance so far as those powers are consistent with the provisions of this Ordinance.

7. The Governor may make regulations to provide for the granting of licences or leases to prospect and mine for oil and for the effective control of any rights granted, and for the better carrying out of the provisions of this Ordinance, and for the following particular purposes:—

Regulations.

- (a) Fees, rents and royalties payable.
- (b) For regulating safety in mining operations, protection of employees, mode of inspection and powers and duties of inspectors, water and timber rights, drainage, pollution of land and water, repair to land on abandonment.
- (c) Working conditions to be observed under prospecting licences, protection licences, or leases.

8. All licences, protection licences, and leases shall be granted only on the implied agreement by the licensee and lessee with the following:—

Rights of His Majesty's Government.

- (a) That His Majesty's Government shall have the right of pre-emption at current commercial prices of all crude oil won from the area concerned and of all products of the refining or treatment of such oil.
- (b) That in the event of war, whether His Majesty's Government is involved or not, the Governor on behalf of His Majesty shall have power to take control of the works and plant in the area granted, or to take control of any refinery or store of oil.
- (c) That the Governor shall have the power to regulate the site of any refinery or place of storage of oil in the Colony and Protectorate of Kenya.

9. The Commissioner of Mines may before the granting of any rights hereunder require any applicant for such rights to enter into a bond with two sureties of reasonable amounts for the due observance and performance of any covenants and conditions to be inserted in any licence protection area or lease or otherwise prescribed by law.

Bond.