



REPUBLIC OF KENYA

Sessional Paper No. 12 of 1967

PROPOSED ACTION BY THE GOVERNMENT
OF KENYA ON THE REPORT OF THE LOCAL
GOVERNMENT COMMISSION OF INQUIRY

Four Shillings - 1967

SESSIONAL PAPER No. 12 OF 1967

CORRIGENDUM

The existing paragraph 11 appearing under the heading *Aldermen* on page 3 is cancelled and replaced by the following:—

11. The Government proposes to abolish the aldermanic system on the introduction of the four-year term of office for council members.

Sessional Paper No. 12 of 1967

Proposed action by the Government of Kenya on the Report of the Local Government Commission of Inquiry

INTRODUCTION

On the 22nd March 1966, a Commission of Inquiry was appointed by His Excellency the President, Jomo Kenyatta, with the following terms of reference:—

“To inquire into and advise on the reforms necessary to make the Local Government system in Kenya a more effective instrument for the provision of local services and local development within the framework of national policy and national programmes, and more particularly—

- (a) the composition and constitution of local authorities;
- (b) the mandatory and permissive functions of local authorities;
- (c) whether certain services at present the responsibility of local authorities should be provided by other bodies and, if so, the nature and constitution of such bodies;
- (d) the extent and nature of Central Government control over local authorities;
- (e) the general financial situation of local authorities including their taxation potential and how revenue to meet the cost of services provided by them should be raised and from what sources;
- (f) the extent and nature of Government contributions to local authorities;
- (g) the means of strengthening the quality and security of local government staff, including appointments and discipline;
- (h) allowances (if any) to be made to members of local authorities;
- (i) generally, the means of improving the capacity of local authorities to contribute towards the implementation of the National Development Plan, and to report the results of such inquiry, the conclusions arrived at and the reasons leading thereto, and to make any recommendations that the Commission may consider desirable or necessary.”

The membership of the Committee was—

Chairman: W. S. Hardacre, F.I.M.T.A., F.S.A.A.

County Treasurer, Berkshire County Council.

Members: R. S. Matano, M.P.

then Assistant Minister for Health.

J. Mwangi, C. A.—

Chartered Accountant.

B. A. Ogot, Ph.D. (London)—

University College, Nairobi.

The Commission met over a period of five months and travelled extensively to receive written and oral memoranda.

The Government of Kenya wishes to express its thanks to the members of the Commission for their Report.

A summary of recommendations and comments by the Commission is in the Appendix to this Paper.

CHAPTER 2 AND 4—BROAD PATTERNS OF ADMINISTRATION OF LOCAL GOVERNMENT AND COMPOSITION AND CONSTITUTION OF LOCAL AUTHORITIES

2. The Commission makes no observation on the basic pattern of administration of local government in Kenya and consequently it is presumed that the Commission considers the present pattern to be the most suitable in the circumstances existing in Kenya today. The Commission, however, considers that certain aspects of the organization and administration are in need of revision and have made a number of recommendations with this in view.

3. Whilst the Government is in agreement with the Commission's view, it considers that additional modifications to the system of local government are necessary to strengthen it.

CONSTITUTION

4. The Government proposes that there shall be municipalities and county councils as first tier local authorities covering the country; as second tier local authorities, there shall be urban councils in urban areas and area councils in rural areas. At present, there are some county councils which have both area and local councils. Experience has shown local councils to be small and ineffective units of local government administration and Government feels that these councils should be replaced by area councils.

5. The Commission recommends that a general review of local authority areas be carried out. Government considers this unnecessary and expensive. However, it considers that there is a need to review several specific matters—

- (a) municipalities and urban councils—to redraw their boundaries to accommodate natural development (Government is already reviewing the cases for the extension of boundaries of Kisumu Municipality and Thika Municipality);
- (b) urban councils—to consider whether they are ready for municipal status;
- (c) former townships which were established under the repealed Townships Ordinance and which now have no legal status of their own—to consider whether some of them should qualify for urban council status. There would be a number of former townships which would not, however, qualify for urban council status but which, nevertheless, need to be given some legal status to provide for urban services and planning. Government proposes that some of these former townships should be gazetted as townships without powers of their own and with their urban needs and requirements looked after by a township superintendent, appointed by the County Council; and
- (d) county councils—to consider whether area councils should be constituted for the whole or part of their county areas. Government proposes that following the review of county areas, schemes of county administration should be prepared setting out the responsibilities of and relationships between the county council and their area councils.

FIRST CLASS AND SECOND CLASS STATUS

6. Under the present structure of local government, municipalities and counties are divided into first class and second class councils. The recommendation of the Commission to abolish this status is accepted.

At present the Minister has discretionary power to nominate Chairman of second class County Councils, County divisions and local councils. Government proposes that the Minister shall retain his discretionary power to nominate Chairmen of those County Councils and County divisions whose administration he considers needs strengthening.

MEMBERSHIP

Councils

7. The Commission recommends that the present three-year term of office and triennial retirement of councillors should be replaced by a four-year term of office and biennial retirement.

(c) The Government accepts the proposal for a four-year term of office but rejects any form of rotational retirement.

Mayors and Chairmen

8. The Government accepts the recommendation that the present one-year terms of office of Mayors and Chairmen of Councils should be extended to an initial period of two years with re-election only after another two-year period.

Nominated Members

9. The Government accepts the view of the Commission that there is still need to strengthen some of the "weaker" local authorities with people of sufficient business experience or wider education, so that they can come to proper decisions and give sound and fair local government services in their areas. Government proposes therefore, that the Minister shall continue to retain his powers to nominate at his discretion members not exceeding one-third the number of members of a local authority.

Reserved Seats

10. The Government is in agreement with the Commission and proposes to abolish elections for reserved seats for special interests.

Aldermen

that 11. The Government accepts the phasing out of the aldermanic system. It proposes that there shall be no more aldermanic elections and that the phasing out shall be completed within four years to coincide with the introduction of the four-year term of office of council members.

COUNCILLORS

Literacy Qualification

12. Although there is provision in the existing Local Government legislation for a literacy qualification for members, the Minister found it necessary in 1963 to waive this qualification. This led in some councils to the election of illiterate councillors who have been unable to contribute adequately to local government. The Commission considers that a literacy qualification would bring more educated members on to councils and recommends a literacy qualification for all

members of local authorities on the lines of the literacy qualification for Members of Parliament. The Government does not accept this recommendation and proposes no change to the present situation.

13. The Government feels that there is also need to encourage greater interest among the public in local government affairs. This should lead to the public exercising discrimination in the election of their representatives and so secure stronger and more responsible councils.

Education of Members

14. The Commission stresses the need to educate new members in their responsibilities as councillors and in their relationship with their officers. The Government is in agreement and considers that there is need to educate all members. To this end, since 1963, Government has initiated courses and seminars and visits to local authorities abroad. The Government will continue with this programme and aim at increasing it.

15. The Government accepts the potential benefits from a mobile educational team recommended by the Commission but considers it impracticable at present because of lack of finance.

16. The Commission's recommendation that ALGAK should edit a periodic "Local Government in Kenya" is accepted. Government considers that ALGAK could grow into a very useful organization and assist in the education of local authority members and officers.

Relationship of Members and Council Officers

17. The relationship of members of councils and officers has been difficult in some councils: Government considers that education, experience on local authorities, the appointment of properly qualified officers and the establishment of a Local Government Service Commission will help to solve this problem. Already in certain councils this problem is becoming less acute. (The Local Government Service Commission is dealt with later on in the Paper—see paras. 117-119.)

COMMITTEES

18. Although the Commission has no comment to make on the number of Committees and size of membership, Government considers that they need to be controlled. This control is now being exercised through the Minister's power to fix the rates of allowances payable to councillors.

19. Provision already exists for co-opting on a Committee of a Council of persons who are not members of that Council, providing that the number of co-opted persons does not exceed one-third of total membership of that Committee.

CITY STATUS

20. The Government supports the principle of the creation of city status and proposes that His Excellency the President may bestow city status by Presidential Decree at his pleasure.

PRECEDENCE

21. The Government accepts the Commission's view that there is need for clarification and that the Mayor should take precedence after the President on all civic occasions in his own area.

CHAPTER 5—MANDATORY AND PERMISSIVE FUNCTIONS

22. Under this heading the Commission reviews the distribution of functions among the various classes of local authorities and also considers whether any of the services which are at present being performed by local authorities could be transferred to other bodies.

The Government proposes to maintain the present division of mandatory and permissive functions of local authorities.

PRIMARY EDUCATION

23. The Commission would appear to support the view that primary education is a service which is very local and therefore local authorities should have a voice in it particularly as their money is used to finance it. The Commission recommends that local authorities should retain primary education as a mandatory function provided they are given assurance of reasonable finance.

(c) 24. The Government accepts the principle that primary education is a local function. A satisfactory grants system is being worked out to enable local authorities to carry out this function without undue financial difficulty. Procedures for control, consultation and co-ordination have been agreed and all are continued in paragraphs 38-40 of this Paper.

HEALTH SERVICES

25. The Commission draws attention to the lack of clarity in the division of responsibility between Central Government and local authorities for health services. This lack of clarity has arisen in the provision of maternity and ambulance services and is at present under review.

26. The Commission considers that as Government is responsible for general hospital services, it would seem more proper for Government to take over the responsibility for contributions at present being made to non-Government hospitals by some local authorities. The Government accepts this recommendation.

MAINTENANCE OF ROADS

Classification

(ha) 27. The maintenance of trunk roads is a responsibility of Central Government while the maintenance of secondary roads devolves on local authorities for which the latter are given Government road grants. The Commission recommends that a periodic review of road classifications should be carried out so that roads which merit a higher classification than in fact they have, would attract Government contributions towards their maintenance. The Government accepts this recommendation.

Duplication of Road Maintenance Organizations

28. The Government accepts the Commission's view that there is need to keep local authorities and Ministry of Works road maintenance organizations under review to ensure that there is no duplication of organizations.

HOUSING

29. There are in practice two branches of the public service with powers to build houses—the local authorities and the Ministry of Housing. The Commission expresses the view that there is no justification for this duplication and that any

housing programme, particularly on a national scale, needs to be integrated with the forward planning programmes of all local authority services. Any realistic housing programme must increase the expenditure of local authorities in several ways.

Since housing development involves the provision of ancillary services by local authorities, they must for this reason be intimately concerned with all proposals for provision of housing. Government has now established the National Housing Corporation to co-ordinate housing development throughout the country.

SERVICES OUTSIDE PRESENT RANGE OF LOCAL GOVERNMENT

30. The Commission recommends that the following be incorporated in the local government mandatory functions:—

(a) Social Services and Community Development.

(b) National Development Plan.

(c) Public Utility Services—

(i) Water Distribution.

(ii) Road Passenger Transport.

31. The Government rejects these recommendations with the exception of the recommendation for a closer association by local government in the formulation of the National Development Plan for reasons stated hereunder.

Social Services and Community Development

32. While it is desirable that Community Development should be a mandatory function, its provision is dependent on a local authority's financial resources and therefore Government proposes that it should be for a local authority to decide the priority of its services.

National Development Plan

33. This item is dealt with under paragraphs No. 134 and 135.

Public Utility Services

34. *Water Distribution*—Experience has shown that many local authorities do not have the staff nor the organization to become water undertakers and therefore Government considers that the present policy of appointing selected authorities as water undertakers should continue.

35. *Road Passenger Transport*—The Government accepts the principle that local authorities shall be responsible for urban road passenger transport services. However, Government considers that it would be unrealistic to make this a mandatory service at present and therefore proposes that responsibility for urban road passenger transport should continue to depend upon the financial ability of a local authority to undertake such a service.

**CHAPTER 6—EXTENT AND NATURE OF CENTRAL GOVERNMENT
CONTROL OF THE LOCAL AUTHORITIES**

36. In this chapter, the Commission makes a number of recommendations to make more effective Central Government's present control over local authorities. It has become apparent since 1963, when local authorities in Kenya were reconstituted, that more effective control and direction is required by Central Government to guide local authorities into becoming efficient organizations capable of playing the role in the development of the Nation. The Government supports the Commission's view that the present controls over local authorities need to be simplified and their implementation speeded up. A summary of the main Government controls over local authorities which exist at present are set out in the Appendix at Page 30 of the Commission's Report.

(c) 37. Government control is exercised through the Ministry of Local Government which has for some time been labouring under difficulties arising from a severe shortage of qualified senior officers of experience. The Commission recommends that, to enable the Ministry of Local Government to exercise the existing controls, a decentralization of senior local government officers is carried out. A start has already been made to post Senior Local Government Financial Officers to the Provincial Headquarters. To assist in this arrangement Government proposes to recruit graduates to fill a number of the existing vacancies for senior finance officers.

INTEREST OF ASSOCIATED MINISTRIES

38. The Commission stresses that there should be adequate co-operation between the Ministry of Local Government and other Ministries when finance functions or forward planning of local authorities are involved. The Government accepts this recommendation. Its implementation is an administrative matter calling for the strengthening of inter-ministerial liaison.

39. Local Government Financial Officers posted to Provinces, although remaining responsible to the Minister, will closely co-operate with Provincial Commissioners and will be members of Provincial teams. They will be entitled to the full support of the Provincial Administration. The Government proposes that the District Commissioner, as the Government representative on the Council, shall be responsible for vetoing any new expenditure or project which has not received Government approval.

that 40. Government officers who act as advisers on particular services and who spend Council funds will be regarded as seconded and accountable to the local authority for their actions. The local authority will be responsible to the Ministry concerned for operation of the services.

Government proposes that the Ministry from which an officer is seconded shall retain responsibility for that officer's conditions of service and discipline. Where, however, a local authority considers that a seconded officer has behaved in an irresponsible or irregular manner, it should be empowered to suspend that officer forthwith from his duties with the Council and to make representations to the Ministry of Local Government. The latter Ministry would then investigate and report to the officer's parent Ministry which be expected to take action on the recommendations submitted by the Ministry of Local Government.

DISCLOSURE OF INTEREST

41. Under the present legislation, a member is required to disclose his interest in certain circumstances when a contract or proposed contract or other matter is under discussion. There is no legal power however, to require a member's interest to be recorded in the minutes and the member to leave the meeting. The Government accepts the Commission's recommendation that a member should be required to declare his interest which declaration should be recorded in the minutes. In addition, the Government proposes that a member having declared his interest should then leave the meeting and if he fails to do so, the Chairman of the meeting shall have power to order his removal.

42. The Government does not accept the Commission's recommendation for an annual or periodic return from every member to the Clerk indicating his interests. It would be administratively cumbersome and difficult for the Clerk to maintain a confidential and up to date record as well as ensuring that interested members do not participate in discussions on matters in which they have declared their interest.

TENDERS

Opening of Tenders

43. The Government accepts the Commission's recommendation that there is need to regulate the procedure for opening of tenders and proposes to do so by means of regulations made by the Minister.

Group Tenders

44. The Government accepts the Commission's recommendation that there is scope for group tenders i.e. for local authorities to combine for the purpose of obtaining certain supplies on more favourable terms. The Government also accepts the recommendation that the Minister should be empowered to direct local authorities, in their interest, that this be done.

Selective Tendering

45. The Government also proposes to introduce legislation to allow local authorities, with the approval of the Minister, to operate a selective tendering system. Selective tendering was formerly provided for in the repealed Municipalities Ordinance and is designed to avoid a large amount of administrative work by restricting the right to tender to a list of selected tenderers who are known to be capable of carrying out the particular work or construction. This procedure is in accordance with Government practice.

Tendering for Education Supplies

46. To facilitate adequate financial control over education expenditure it has been agreed by Government that tendering for Education Supplies shall be centralized and be undertaken by the Central Tender Board on behalf of all Local Authorities with effect from the commencement of the year 1969.

AUDIT AND AUDIT REPORTS

Audit and Inspection

47. Under present legislation, the Minister appoints Inspectors to inspect and examine the accounts and records of local authorities. This comprises more than an audit of the accounts and includes a review of the manner in which the local authority has carried out its functions. Because of staff shortage in the

Annual Audit Reports

51. The Commission states that the financial administration of a local authority is of real interest not only to a finance committee but also to council, and indeed to all those who pay their contributions towards the provision of local government services. The Commission therefore recommends that provision should be made for a streamlined annual audit report to be included in the public minutes of the local authority. The Government accepts this recommendation.

52. The Government proposes to—

- (i) strengthen the Audit Section of the Ministry of Local Government in order to complete the backlog of audits in 12-18 months time;
- (ii) transfer the audits of the accounts of Nairobi City Council and of Municipal Councils immediately to the Controller and Auditor-General who will be authorized to employ commercial auditors;
- (iii) transfer responsibility for the audits of all County Councils to the Controller and Auditor-General, together with the requisite staff, when County Council audits have been brought fully up to date.

APPOINTMENT OF A COMMISSION FOR CARRYING ON THE AFFAIRS OF A LOCAL AUTHORITY

53. The Local Government Regulations empower the Minister to remove a Council and in its place appoint a Commission of not less than three persons to carry on the affairs of the local authority in certain circumstances. The Commission recommends that the period over which such a Commission may act should be made more flexible and the present initial period of nine months be capable of extension to something like two years. The Government is in agreement with this recommendation and has already promulgated legislation to extend this period to two years with powers for further extension.

ANNUAL LOCAL AUTHORITY REPORTS

54. The Minister is at present empowered to direct local authorities on the form of the annual report which they are statutorily required to submit. No such direction has been made and the Government accepts the recommendation of the Commission, that this power should be exercised.

LIABILITY TO SURCHARGE

55. Under the present surcharge provisions in the Local Government Regulations, an officer, employee or seconded officer of a local authority whose advice is rejected by the Council and recorded in the minutes of the council is not liable for any surcharge which might arise as a result of implementing the council's decision.

56. The Commission considers that it is not in the best interests of local authorities for improper payments to be made, or for improper actions to be taken, in any circumstances. The Government accepts this recommendation and Regulations 236 and 242A of the Local Government Regulations will be used very strictly to surcharge Council and Government officers who misappropriate, overspend without proper authority or authorize misappropriation or over-expenditure improperly. In addition, Government proposes that if Councillors ignore a Government directive on expenditure and instruct Council and/or Government officers to incur expenditure which is irregular, they will be held

individually and severally responsible for such breach of directive and surcharged accordingly. Regulation 236 (4) of the Local Government Regulations will be amended to ensure that the officers of a Local Authority cannot in future avoid responsibility when complying with a direction from the Council of an illegal or irresponsible nature by simply registering their objections or advice in the Council's minutes.

FINANCIAL REGULATIONS

57. The Local Government Regulations provide that every finance or finance and general purposes committee shall make provision by standing orders regarding those matters coming within the scope of such a committee. The Commission correctly points out that little attention has been given to preparing such standing orders. Not all local authorities have produced financial regulations for a variety of reasons the main one being shortage of competent staff to draft such regulations. The Government accepts the Commission's view that such regulations are of vital importance to the efficient financial administration of a local authority and the Government is already engaged in producing a model set of Regulations for adoption by local authorities.

APPROVAL OF LOCAL AUTHORITY ESTIMATES

58. The Commission draws attention to the delay which arises in some instances in the approval of local authorities' estimates by the Ministry and points out that one reason is that frequently estimates of income are overstated, and this necessitates investigation before the estimates of expenditure can be considered.

59. The Commission suggests that in October of each year local authorities should provide the Ministry with estimates of income for the following year. The Ministry could then examine these income estimates and agree them in advance of the preparation of expenditure estimates.

60. The Government proposes that the estimates of local authorities shall initially be prepared by the Treasurer with other responsible Council officers in conjunction with the Provincial Local Government Financial Officer. These estimates shall be submitted in triplicate to the Ministry of Local Government by the end of August. The Government will then have the opportunity of commenting on the draft estimates before they are submitted to the Finance Committee of the Council. The estimates will require approval of the Council not later than the end of November. Provincial Local Government Financial Officers will be authorized to attend all principal estimates committees of the councils, e.g. Education and Finance and also the Council Budget meetings. The existing powers of the Minister to approve and amend the estimates will not be varied.

NEED FOR GENERAL EDUCATION ABOUT LOCAL GOVERNMENT REGULATIONS

61. The Commission considers that there is a lack of knowledge of the Local Government Regulations amongst local authority officers and members and suggests that a summary of the more important matters might be circulated.

CHAPTER 7—THE GENERAL FINANCIAL SITUATION OF LOCAL AUTHORITIES INCLUDING THEIR TAXATION POTENTIAL AND HOW REVENUES TO MEET THE COST OF SERVICES PROVIDED BY THEM SHOULD BE RAISED AND FROM WHAT SOURCES

62. It has been evident for quite some time that the financial stability of County Councils was gradually weakening for a variety of reasons and that a review must be made of the financial structure of local government. The main problem arises in matching the increasing cost of rapidly developing services with the restricted finances available to pay for them. The Commission has examined the situation and reports thereon in this chapter.

COUNTY COUNCILS

63. The Commission has reviewed the financial situation of county councils and emphasizes that the position revealed is a matter for serious and urgent consideration because whilst expenditure in 1966 was estimated to exceed that for 1965 by approximately £800,000, the increase in income was estimated at only £150,000. It is pointed out that at the same time the Government General Grant had decreased in 1966, and that similar financial difficulties were avoided in 1965 only because of additional Government Grant £1.7 million. The Commission also draws attention to the fact that an increasing number of councils have accumulated deficits on their General Funds—at the end of 1966 it was estimated that 15 county councils would have accumulated deficiencies amounting to £1.18 million.

64. The Commission goes on to stress the particularly serious position of seven county councils, which in total provide services for about one-third of the country's population, unless additional Government grants are forthcoming, but indicates that extra grants will not solve the basic problem, which is that the cost of services which are being demanded of local authorities is beyond their existing income. In the short term, unless the yield of graduated personal tax can be increased by better collection, or by an increase in the rates, the only answer is to increase grants, or to reduce services.

65. The Government was fully aware of the situation which had developed and has already passed a new Graduated Personal Tax Act which is designed to make the tax more workable and which it is anticipated will result in increased collections, but it will take quite some time to show whether or not it is likely to be successful.

66. General grants to Local Authorities have been examined and discussed in detail by the Government. The important thing that emerges from this examination is that adequate grants, properly distributed, will go a long way towards solving the financial problems of Local Authorities. A grant formula has been devised which takes account of the following factors:—

- (i) The obligation of the Councils to finance services entrusted to them.
- (ii) Ability of Councils to finance these services from their own resources.
- (iii) Projected expenditures and revenues of the Councils.
- (iv) The need to take into account the relative development in the various County Councils.

67. The level of general grants, in the aggregate, would equal the difference between agreed estimates of expenditure and agreed estimates of revenue of

County Councils for the year 1967 and the projected expenditures and projected revenues of County Councils for the year 1968 and after. Due to the conditions to be fulfilled by each local authority, the projected figures will only be taken as forecast figures and not final absolute figures. The level of grants determined in this manner becomes the maximum aggregate amount which will be allocated among County Councils according to the grant formula. Using this approach the estimated *maximum* aggregate grants in 1967 and 1968 would be:—

	1967	1968
Expenditure	£11,491,000	£12,103,000
Revenues	£8,701,000	£9,107,000
Grants	£2,790,000	£2,996,000

In respect of the year 1967 the actual allocation of grant has now been determined and the total sum to be distributed to County Councils is £2,614,112.

68. The required grants calculated for 1967 and 1968 do not include contingent grants that will be necessary to assist County Councils that are considered special cases. It has been estimated that contingent grants for special cases could reach £494,000 in 1967. The provision of grants for these special cases will be conditional on the necessary reorganization aimed at bringing the Local Authority operations back to normal level of services and expenditures. It should also be noted that grants required in 1967 and 1968 have been calculated without regard to the impact of costs of the recommendations of the Salaries Review Commission and of variations in the calculations which may arise from other Government policy decisions in those years. Additional grants may be required to cover the increased costs or loss of revenue arising from such decisions.

69. The distribution of general grants among County Councils mentioned above will be based on a formula which recognizes *relative expenditure needs* and *relative fiscal abilities* of County Councils. The best available indication of expenditure needs is the relative population of County Councils, and the best available indication of fiscal ability is an index of per capita income. The underlying assumptions of the grant formula are:—

- (i) Grants should vary directly with population.
- (ii) Grants should vary inversely with fiscal ability.

The reason why grants should vary inversely with fiscal ability is in order that grants will equalize, in some degree, for differences in the fiscal ability of individual County Councils to finance their services. The fiscal ability variable in the formula will be weighted 20 per cent and the population variable weighted 80 per cent in 1967 and 1968. If it is deemed desirable to equalize more for difference in fiscal abilities in future years, the fiscal ability variable could be weighted more.

70. The pattern of grants in 1967 and 1968 based on the formula differ significantly, in some instances, from the present distribution of grants. The reason for this is that the present distribution of grants is not systematically based on relative needs and relative abilities of County Councils. The Ministry of Local Government will be able to alter the grant allocations based on the formula in the following circumstances—

- (i) if a County Council would receive less in grants in the first several years of operation under the formula than it did in 1966;

- (ii) if a County Council would received larger grants than it could efficiently use; and
- (iii) if a County Council cannot meet the conditions necessary to qualify for maximum grants in a given year.

71. The following factors will be among the factors considered in determining whether a County Council qualifies to draw against its maximum grant:—

- (i) Projected expenditure should be reasonable and consistent with approved development plans.
- (ii) Projected revenues should reflect a maximum fiscal effort by County Councils.
- (iii) General reserves should not exceed one-sixth of recurrent expenditures and provisions should be accumulated at reasonable and approved rates. The implementation of this principle will have to take account of the overall financial position of the council concerned.

72. The Commission criticises the use by local authorities of special funds *viz*: renewals, reserve, capital and provident funds, and even funds held on behalf of other authorities, to finance deficits on their general funds and in fact, state that it is bad in principle. The Government agrees with this contention but in times of severe cash shortage, such expedients cannot be avoided if it is desired to maintain public services. When the general financial position has been assessed, steps will be taken to restore the spent balances not exceeding levels to be approved by Government.

MUNICIPALITIES

73. The Commission states that the financial position of municipalities is much less precarious than that of County Councils although there is evidence that expenditure is increasing whilst income is more or less static. As well as having total balances on their general funds at the end of 1965 of over £1.5 million, their finances differ in several respects from those of County Councils—

- (a) municipalities raise considerable revenue from land rating;
- (b) Government grants account for only 3½ per cent of municipalities' income compared with 33 per cent in counties;
- (c) primary education consumes 62 per cent of total expenditure in counties compared with only 19 per cent in municipalities;
- (d) municipalities have a greater degree of income-producing services *viz*: housing, water supply, and conservancy.

The Government notes these comments but because of the continually rising cost of education will keep the situation under review.

TAX POTENTIAL AND REVENUES OF LOCAL AUTHORITIES

General

74. Various suggestions were made to the Commission on additional sources of revenue for local authorities but all such proposals would either infringe on existing Government taxes or merely transfer present Government revenues to local authorities. The Commission therefore concludes that additional revenues for local authorities will have to be obtained from the improvement and develop-

ment of existing sources, including grants from Government. [The quotation on page 36 of the Commission's Report is erroneously attributed to the 1966 Economic Survey.]

75. The Government broadly supports these conclusions and is taking steps to make possible a more effective collection of tax. Produce cesses will continue to be levied until they can be replaced by other revenues.

Graduated Personal Tax

76. The Commission has set out what it considers to be the principal disadvantages of graduated personal tax viz:

- (i) A uniform levy over the country takes no account of differing needs and standards of local authorities.
- (ii) In rural areas, District Commissioners are responsible for graduated personal tax collection. The Commission expresses the view that tax collection should be in the hands of local authorities who have a direct interest in achieving the maximum collection thereof.

The Government considers that as G.P.T. is a tax collected on a national basis there must be uniform rates throughout the country. To require a variety of rates to be deducted from salaries and wages coupled with the process of distribution among Local Authorities would make the system so onerous on the employers as to be unworkable. As to collection by local authorities, the Graduated Personal Tax Act 1966 provides for collection by County Councils where the Minister considers the circumstances make it a practicability.

77. The Commission expresses the view that graduated personal tax must provide a major source of income for local authorities at least for a number of years and goes on to consider how its yield might be increased:—

- (i) by adjustment of tax rates: there seems to be only limited scope for increasing rates of tax, but consideration might be given to empowering local authorities to levy their own rates of tax. It is also stated that there is perhaps scope in some areas for a reduction in the lowest rate of tax to enable persons with low incomes to make some contribution to local services;
- (ii) by improved enforcement procedure; and
- (iii) by review of the assessment procedure in rural areas.

78. Since the Commission reported, a new Graduated Personal Tax Act has been enacted which is designed to achieve a more satisfactory collection of tax: it will take some time before its success can be judged. The Government's view on variation of rates between local authorities has already been stated. The new law provides for the Minister to determine tax rates after consultation with the Minister for Finance.

79. The Commission reports that many complaints had been made by rural local authorities that they had not received what was considered to be a fair transmission of tax from the municipalities in respect of tax paid by persons resident, or whose families are resident, in those rural areas. The Government was aware of this dissatisfaction and has revised the procedure with a view to achieving more equitable results.

80. The Government proposes that with effect from the 1st of January 1968, 50 per cent of the Graduated Personal Tax proceeds of Nairobi City Council

and Mombasa Municipal Council be transferred to Government to assist in the provision of grants to County Councils within the framework of the grant formula. At present, Nairobi and Mombasa transfer approximately £640,000 to other local authorities. Government's proposal would be to stop this system of transfer, which is based on evidence obtained from employers, and institute a transfer directly to Government equal to 50 per cent of total Graduated Personal Tax proceeds of these two Councils less half the total cost of collection. Other local authorities will continue to transfer Graduated Personal Tax in accordance with the present system.

It is estimated that Nairobi and Mombasa will in future transfer approximately £1.4 million, per annum. It is proposed that from this sum, Government should in the year 1968 compensate those local authorities which would suffer a loss of Graduated Personal Tax revenue if tax transmissions from Nairobi and Mombasa Councils were to be discontinued. The total of these compensation payments is estimated at £640,000 thus leaving approximately £760,000 to accrue to the Government to assist in the provision of grants to County Councils. From 1969 onwards, the grant formula calculations would be revised completely and compensation would be absorbed in the new level of grants.

81. The recent announcement by the President of a reduction in the lowest rate of Graduated Personal Tax will mean a loss of revenue to all Councils in Kenya. The budgets of Councils for the year 1968 have already reached an advanced stage of preparation and it is proposed therefore, that Government should compensate local authorities for this loss of tax revenue in 1968. From 1969 onwards, as indicated above, there will be a complete revision of calculations under the grant formula.

Rating

82. The Commission draws attention to the fact that municipalities raise over £2 million annually on land rating whilst in other authorities rating is hardly developed and produces only £150,000 annually. It suggests that the yield in the municipalities could be increased by levying rates on the land and improvements. It also recommends the development of rating in other areas, and goes on to suggest that unless the product of graduated personal tax can be substantially increased, the development of the permissible forms of rating may be the only alternative to increased Government grants for the expansion of services.

83. Existing rating legislation (i.e. Cap. 266 and Cap. 267) already provides for improvement rating, but only the unimproved site values have been rated in the past because of fears that improvement rating might discourage development. More important, improvement rating would call for the services of technical officers beyond the available supply and would delay the development of rating where it does not exist at present. Improvement rating is therefore not considered practicable for the time being.

84. The Government is keeping this matter under review. The introduction of rating where it has not previously been used is hindered by the severe shortage of valuers and surveyors. The Government is therefore pleased to note that University College proposes to introduce a degree course which will include valuation as a subject, but in view of the urgent need to enable local authorities to expand their existing sources of revenues, Government intends as a temporary measure to recruit additional valuers on contract terms from overseas.

85. The Commission suggests as an interim measure that consideration be given to a system of "selective" rating on commercial and industrial properties where there is no general rate. Its reason is that commercial and industrial properties benefit from and create a demand for local authority services and should contribute to their cost. The Government rejects this suggestion as being unduly discriminatory because all development whether it is commercial or not creates a demand for services and discriminatory taxation may be detrimental to development. The existence of isolated commercial and industrial properties already provides local authorities with an assured source of revenue from graduated personal tax. It is also doubtful whether the product of such a rate would be sufficient to justify the cost of collection.

86. The present rating legislation is restrictive in that it limits the purposes on which the proceeds of a rate levied under the Rating Act (Cap. 267) can be expended. The Government proposes to amend the legislation to allow local authorities to use rate proceeds to meet expenditure on any of its authorized functions, but in the meantime, the Minister for Local Government will exercise the discretionary powers vested in him to waive the present restrictions.

Produce Cesses

87. Cesses on the sale of produce are generally accepted to be undesirable. They are discriminatory and apply only in certain areas and to certain products and vary from place to place. Increasing costs of production tend to reduce the margin of profit to the grower to a dangerously low level particularly where cesses are levied; and this encourages the growth of black-markets and hinders the development of the agricultural industry. For these reasons, and the small income derived from cesses, the Commission recommends that all cesses be abolished.

88. The Government has long accepted the view that cesses should be discontinued but since some local authorities benefit very considerably from cesses, the loss of income to them which would follow abolition of cesses would have to be made good either by Government grant or other revenues. The Government proposes that abolition should take effect in a local authority area only when it is possible to introduce other revenues.

Miscellaneous Income (Fees and Charges, Licences, Etc.)

89. Services for which fees and charges are levied by local authorities fall into two groups:—

- (i) services for which the charges are not related to the cost, i.e. education, maternity services, etc.; and
- (ii) services for which the charges are intended to meet the cost, i.e. water, conservancy, housing.

90. The Commission stresses the necessity for regular reviews of all fees and charges levied by local authorities particularly of the type referred to in (ii) above.

91. The Government agrees with this view; and in fact such reviews are conducted periodically.

Future Trends

92. In summarizing their views, the Commission considers that, in future years, there will be even greater pressures on local authorities to expand their social services but that heavy increases in fees and charges would fall heavily on the

majority of people with low incomes in rural areas; at the same time, it is unlikely that any additional revenue which might accrue to counties from taxes in the next few years will be sufficient to provide services above the existing level and that for some time a gradual increase in Government grants may have to be the answer.

93. The Government agrees with this summing up and accepts that it has the responsibility to see that local authorities have the means to finance such services as Government may wish them to provide.

THE FUTURE FINANCIAL PROSPECTS OF LOCAL AUTHORITIES

94. Attention is drawn by the Commission to the provision in the 1966/70 Development Plan that 150 new first entry classes will be opened in primary schools in the period 1967/70; and that the quality of teaching is to be improved by providing more trained teachers and reducing the number of untrained teachers. It is further anticipated that work will start in the Development period on 110 health centres and that Government's contribution will be limited to half the cost. The Commission further points out that revenues of local authorities are strictly limited and that in the end services must be tailored to the amount of revenue available rather than the size and quality of services setting the pace. This situation once again highlights the absolute necessity for the closest co-operation between Central and Local Governments. It also shows the need for a forward plan of local government expenditure and income for a period of three to five years ahead. The extent to which local government expenditure increases or decreases must be governed by the Government departments whose service requirements have a major effect on local government, e.g. education, health and roads. It is the function of the Ministry of Local Government to co-ordinate these requirements, relate them to the financial resources of individual local authorities and to make a decision on the level of services which local authorities can maintain. The Commission draws the conclusion that if local authorities have entered into present and future extension of services which involves excessive spending in relation to the national purse, it can only be due to inadequate consultations and absence of forward planning amongst the affected Government departments. Emphasis is laid on the desirability of adequate consultations between Ministries and local authorities before any new plans or decisions are announced which would have a vital bearing on the finances and administration of local authorities.

95. The Government agrees that services must be tailored to suit the available revenue and that a forward plan of local government expenditure and revenue for three to five years be prepared by Government and local authorities in co-ordination.

96. It is considered that as the Local Government Commission of Inquiry confined itself in the main to broad principles, it is now imperative that a more detailed review of local authority finances in Kenya be conducted at an early date.

FINANCIAL ADMINISTRATION

Capital Finance

97. The Commission's Report draws attention to the detailed control which is exercised by Government over borrowing by local authorities and refers to the fact that the Development Plan provides for expansion of services for which local authorities are responsible and envisages that local authorities will be

responsible for financing part of this development, yet only a small number of local authorities have compiled their own development plans. The Commission advocates that all local authorities should prepare such plans and that they be co-ordinated with the Government plan. These plans could then be used for negotiating Government agreement to development including borrowing on a broad basis.

98. The Government agrees with this in principle and will have plans for capital expenditure prepared in consonance with Government Development Plan.

Preparation of Final Accounts and Estimates

99. The Commission draws attention to the lack of up-to-date financial information relating to some local authorities and to the difficulties which this lack causes, one of which is that financial control cannot be exercised effectively: such control is especially necessary when revenues are so limited. Two reasons are given for the delay in account preparation: shortage of competent staff in local authorities and the complexity of the accounts and accounting systems. With a view to eliminating the arrears of financial accounts, the Commission makes three suggestions—

- (a) recruitment of retired unqualified accountancy staff, competent to give spare-time assistance;
- (b) supervision of book-keeping of local authorities by professional accountants; and
- (c) sharing of services of senior financial staff of municipalities with counties.

Finally, the Commission states that the Ministry of Local Government should ensure that prompt action is taken if local authorities do not balance their accounts on time.

100. On the nature of the accounts, the Commission expresses the opinion that there is scope for considerable simplification and suggests that this be investigated by Government and local authorities.

101. The Government agrees that up-to-date accounts are essential for effective control. Action is being taken as indicated in paragraph 48 of this paper to bring local authority accounts up to date and to carry out audits. Steps have already been taken to implement suggestions (a) and (b) above, so far with little success.

102. The Government has already approved the recruitment of staff for secondment to local authorities as well as extending training facilities for local government and Ministry staff at the Kenya Institute of Administration. Suggestion (c) is not viewed favourably as shared services usually result in neither employer being satisfied. Whilst municipalities in general have satisfactory accounting organizations they do not have any unused potential.

103. The Commission's statement that the Ministry of Local Government should ensure that action is taken if local authorities do not balance their accounts is theoretically sound but impracticable. If local authorities do not, or cannot, produce accounts, the only alternative is for the Ministry staff to carry out the work. With some regret Government accepts the fact that in some county councils, it is virtually impossible for the staff to keep more than the most elementary accounting records. Steps are being taken to simplify the system to be applied in selected smaller, poorer-staffed counties on the grounds that a less satisfactory system which has a chance of working is better than a more satisfactory one which does not work.

CHAPTER 8—THE EXTENT AND NATURE OF GOVERNMENT CONTRIBUTIONS TO LOCAL AUTHORITIES

104. In this chapter the Commission sets out the basic principles which should underline any grant system, examines and criticizes the present grant system and points to the matters which must be resolved before compiling a grant formula for future application.

BASIC PRINCIPLES

105. The Commission states that any grant system should—

- (i) be adequate to enable local authorities to maintain a level of local government services acceptable to Government, and
- (ii) in its distribution, be fair to all the local authorities concerned, i.e. it should have regard to the relative wealth of different local authorities and to the varying financial needs of their local government services.

106. These principles are agreed by Government. An effective grant system has been devised and takes account of the above principles. Details are set out in paragraph 66-71 of this Paper.

ROAD GRANTS

107. The Commission reports that several local authorities have complained of the inadequacy of road grants. The Commission considers however, that this is a matter which can profitably be discussed periodically between the Ministry of Works and A.L.G.A.K.

108. In order to ensure that money provided by Government to local authorities by way of road grants has been properly expended, the Commission expresses the opinion that a certificate should be prepared by local authorities to the effect that grants have been properly spent. In cases of misapplication, the auditor should report to the Minister. Government is fully aware of the need to ensure the proper accounting of grant moneys and is already making arrangements for grant-aided road works to be inspected by Ministry of Works engineers; it is considered that this will be more efficacious than a certificate given by a local authority which would be almost impossible for an auditor to verify.

CHAPTER 9—MEANS OF STRENGTHENING THE QUALITY AND SECURITY OF LOCAL GOVERNMENT STAFF INCLUDING APPOINTMENTS AND DISCIPLINE

109. In this Chapter the Commission deals with the problem of recruiting and training staff for the Ministry of Local Government and local authorities; it recommends the constitution of a Local Government Staff Commission and in addition deals with the relationship of councillors and staff, staff discipline and the relationship of Local Government administration with the Provincial and District Administration. The Government's views and decisions are set out hereunder.

MINISTRY STAFFING

110. The Commission draws attention to the need to fill 16 vacancies in the establishment of 60 in the Ministry of Local Government, as well as an immediate need to fill ten of these vacancies at a senior level, so that some measure of decentralization is possible as already recommended in Chapter 6 of the Report.

111. The problem of recruiting staff and Government's training programme for African financial officers has already been commented on in paragraph 48 of this Paper.

LOCAL AUTHORITY STAFFING

112. The Commission stresses the need for an immediate review of the whole question of staffing in local government, to be followed by urgent action. They have recommended the appointment of an officer with a "good deal of drive, imagination, and initiative" to prosecute the review.

113. The Government accepts this recommendation and in addition proposes that this officer should be appointed in the Ministry of Local Government and be responsible for assessing the training needs for local authority staff at all levels from senior officers to junior staff.

TRAINING

114. The Commission draws attention to the severe shortage of trained staff in local authorities both at senior and intermediate levels. It is suggested that senior officers should assist in the training of their subordinates by providing training on the job. Since it has become increasingly difficult to recruit any suitable senior officers, intensive local training schemes will have to be developed.

115. The Commission points out that there is at present a pressing need for competent book-keepers, ledger clerks and trained clerks to undertake the urgent financial work of local authorities. It recommends an intensive search for such people from amongst Kenya citizens irrespective of race. The Government accepts this recommendation.

116. The Commission makes the following suggestions for consideration to solve the shortage of financial staff:—

- (a) Limited recruitment of staff from overseas with an aptitude for training. The opinion of Government is that while this is desirable, it is not always feasible to ensure that expatriate staff do have an aptitude for training.
- (b) Joint recruitment of expatriate staff for Ministry and local authorities. The Government points out that owing to the variations in terms and conditions of service of local authorities and Government, this suggestion is impracticable.
- (c) Wider and more comprehensive training schemes with possibly greater emphasis on intensive book-keeping courses. The Government states that this suggestion will be effected as soon as possible. Until training in all grades can be made available, preference will be given to senior courses.
- (d) Introduction of limited number of graduates to undertake a certain amount of work in connection with the Ministry of Local Government's responsibility for occasional inspection into the procedure of the local authority. The Government accepts this suggestion subject to the availability of suitable graduates.
- (e) Recruitment of 12 juniors with adequate school examination qualifications to serve a bonded apprenticeship with the Kenya Government and receive practical training in local government finance with the Ministry and Local Authorities and also to receive suitable training for their professional qualifications. Steps have already been taken by Government to recruit 20 school-leavers on this basis.

- (f) Review for wider training facilities such as weekend courses. The Government proposes that this review be carried out by the special officer to be appointed to the Ministry of Local Government referred to in paragraph 113.

STAFF COMMISSION

117. The Commission recommends the constitution of a revised Local Government Staff Commission in place of the present advisory Local Government Staff Commission. It comments on the atmosphere of insecurity among local government staff in Kenya because of a feeling that certain appointments are made irrespective of merit and more with an eye to local connexions.

118. The Government accepts the need for such a Commission and proposes to appoint a body to be known as the Local Government Service Commission on the following lines with the following functions and responsibilities:—

(a) Constitution

- (i) The Commission will be composed of eight members, one from each Province and one from the City of Nairobi and will be appointed by the Minister for Local Government who will nominate the Chairman.
- (ii) there will be an Executive Committee appointed by the Commission of not more than four of its members.
- (iii) there will be a Consultative Committee at national level consisting of representatives of the local authorities and the Local Government Workers Union, with powers to make recommendations to the Service Commission.
- (iv) there will be Boards of Inquiry to which both employers and the Trade Union may appeal on certain specific grounds.
- (v) the final arbiter in relation to disputes will be the Minister for Local Government.

(b) Functions.—The Commission will cover the following functions:

It will

- (i) appoint, discipline and remove all members of the service;
- (ii) formulate the local government salaries structure and conditions of service;
- (iii) provide for joint negotiating machinery;
- (iv) establish and supervise the arrangements for retirement benefits in the Local Government Service;
- (v) advise Councils on the training of their employees, selection of candidates for training, co-ordination of training schemes, the setting up of promotional and entrance examinations.

(c) Scheme of Operation

- (i) The Local Government Service Commission will be responsible for appointment of all staff but will have the power and be encouraged, to delegate appointments except those of chief officers and deputies, to individual local authorities or to their chief officers. Such delegation will be subject to the Service Commission being satisfied, in relation to individual local authorities, that applicants

will be appointed on merit in addition to other qualities; to ensure this, the Service Commission could reserve a right to send an observer on occasions to meetings of appointing Committees.

- (ii) The appointment of Chief Officers and deputies will be made by the Service Commission.

119. The Commission recommends that the Local Government Service Commission should deal with staff training. This recommendation is not accepted. The Commission should provide advice to local authorities on the training of their employees but the actual training is considered to be a matter which could better be looked after by a staff training officer within the Ministry of Local Government as referred to in paragraph No. 113.

COMBINED STAFF COMMISSION

120. The Commission considered whether the Judicial Commission, Public Service Commission, the proposed Teachers Service Commission and the proposed Local Government Service Commission should be combined and conclude that it would be advantageous to have a separate individual Local Government Service Commission.

The Government is in agreement and considers that there should be co-ordination of policy between the four Commissions.

SOCIETY FOR CHIEF OFFICERS

121. The Commission recommends the formation of a society in Kenya for chief officers to meet occasionally through the year to enable discussions to be held on various general matters affecting the administration of local government. Such a society could act as a liaison between the principal staff of the Ministry of Local Government and the chief officers of local authorities. A particular advantage would be that the inexperienced chief officers would have the benefit of consorting occasionally with other chief officers in the country and thereby obtain some benefit and education in local government top level administration from those officers with longer experience. The Government is in agreement with this recommendation.

RELATIONSHIP OF COUNCILLORS AND STAFF

122. The Commission draws attention to the problems that have arisen in the relationship between councillors and staff due to the over-enthusiasm of councillors, and their ignorance of the Local Government Regulations, which restrict the activities of councillors to policy matters. The Government considers that education and experience in local government affairs will in due course ease this situation.

RELATIONSHIP OF LOCAL GOVERNMENT ADMINISTRATION WITH PROVINCIAL AND DISTRICT ADMINISTRATION

123. The Commission feels that there might be some danger of duplication between the Local Government Administration and the Provincial and District Administrations. The Government considers that there is need for both the Provincial Administration and Local Government Administration to exist, and means of co-ordination have been proposed in paragraph 39 of this Paper.

CHAPTER 10—ALLOWANCES, IF ANY, TO BE MADE TO MEMBERS OF LOCAL AUTHORITIES

124. Prior to the reconstitution of the local authorities in 1963, the practice of the old municipal and county councils was for councillors to give voluntary services and to claim only for actual out of pocket expenses and in the African District Councils for councillors to be paid a sitting allowance. The majority of councillors in municipalities and counties were Europeans or Asians who could afford to give voluntary service. However, with the reconstitution of local authorities, and the election of a majority of African councillors, a large number of whom cannot afford to serve voluntarily, the situation has changed.

125. The question whether councillors should be paid a salary, sitting or consolidated allowance or be required to give voluntary service, has become a subject of much debate. From experience gained in the past few years, the Government has concluded that to require councillors to give voluntary service is unrealistic whilst to pay them a salary would attract the wrong type of councillors, be too expensive and remove totally the spirit of voluntary service and *Harambee*. The Government therefore considers that consolidated allowances, as operated under the present Local Government legislation, are a fair compromise.

126. The Local Government Regulations 1963 empower the Minister for Local Government to approve the payment of sitting allowances to local authority members to cover out of pocket expenses, subsistence and loss of earnings. In 1963, the Minister approved a payment of a small subsistence allowance in respect of days actually spent on meetings of the council or committees as well as travelling allowance, the latter at Government rates. This system led to councillors tending to meet endlessly in order to attract allowances and therefore, in October 1965, the consolidated system of allowances was introduced. The consolidation is based on certain criteria requiring councillors to be members of at least two committees and to attend meetings. In addition, if a councillor fails to attend 75 per cent of the officially convened meetings of the council or committees, his allowances are abated. The Government proposes to introduce legislation to empower the Minister to impose conditions in respect of payment of allowances.

MAYORS AND CHAIRMEN

127. The Commission is of the opinion that the allowances paid to Mayors and Chairmen are somewhat generous and ought to be reduced and that allowances for Deputy Mayors, Vice-Chairmen and Chairmen of committees should be scaled down accordingly. A review of all allowances is being carried out by the Government.

OVERNIGHT ALLOWANCE

128. The Commission makes no specific recommendation on overnight allowance, but suggests that the Ministry of Local Government might well look into special cases and possibly authorize special occasional payment of overnight allowance.

129. The Government points out that the consolidated allowances introduced in October 1965, as explained in paragraph 126, include a reasonable element for overnight allowance but the matter is being reviewed.

TRAVELLING

130. The Commission recommends that while allowances for attending meetings might be fixed on a basis of an assumed number of occasions, nevertheless it is of the opinion that travelling expenses should be paid according to the number of journeys actually made on council business.

131. The Government rejects this recommendation. Consolidation of travelling allowance has been introduced by the Minister to avoid the processing of countless claims by finance staff and also to avoid Councils convening meetings simply to attract allowances. It is proposed, therefore, to continue with the system of consolidated allowances. Provision will be made, however, for consideration of claims for additional travelling after the close of each year.

PUBLIC BODIES GENERALLY

132. The Commission is of the opinion that in general there should be no disparity between the allowances paid for public bodies generally and that, as far as possible they all ought to be in line with the allowances of the Civil Service. The Government does not accept this recommendation, since it is not an appropriate comparison because of the different bases underlying consolidated allowance and subsistence allowance. A consolidated allowance which is paid to members of local authorities includes elements of subsistence allowance and loss of earnings, entertainment, etc., while a subsistence allowance paid to members of public bodies covers only their out-of-pocket expenses, such as hotel, meals and expenses of attending meetings.

PUBLICATION

133. The Commission recommends that an annual record of any allowances paid to members should be maintained and made available for public inspection. The Government is in agreement with this recommendation and in view of the large amount paid by local authorities by way of allowances (£150,000 approximately per year) local authorities will be required to record the allowances paid in their minutes.

CHAPTER 11— MEANS OF IMPROVING THE CAPACITY OF LOCAL AUTHORITIES TO CONTRIBUTE TOWARDS THE IMPLEMENTATION OF THE NATIONAL DEVELOPMENT PLAN

DEVELOPMENT PLAN

134. In this Chapter, the Commission draws attention to the absence of any provision for individual local authorities to participate in the preparation of the draft development plan. It recommends that each county council should appoint a high-powered development committee with a good deal of delegated authority. The County Development Committee should co-opt representatives from municipalities in the county, appropriate Central Government officers in the area, local Members of Parliament and industries and it should be their duty to collect and examine schemes to be put forward to the appropriate Ministry and give advice on any relevant priority and to control implementation. Such a County Development Committee would take interest in self-help schemes put forward by other bodies and act as a centralizing body with the use of existing administrative backing and possibly take the place of the new district development advisory committee.

135. The Government accepts that local authorities should participate in the planning process. The proposal that County Development Committees on the lines recommended should replace the District Development Advisory Committee is not acceptable. The Government believes that the membership of the proposed County Development Committee is too diversified to enable it to make a valuable contribution to planning. Further, the planning and plan implementation machinery, at the district level, comprising District Development and District Development Advisory Committees, recently established by the Government is considered adequate and more appropriate.

SPECIAL DEVELOPMENT AUTHORITIES FOR NAIROBI AND MOMBASA

136. The Commission recommends special development authorities for Nairobi and Mombasa under an executive director responsible to an independent board under the Mayor's Chairmanship on which local and Central Government officials and elected members and, for example, commercial interests, trade unions and the University College in the case of Nairobi would be represented. The Commission feels that such Boards would correlate the social, economic and physical planning needs of Nairobi and Mombasa with the development of their areas, the population growth and economic opportunities of the nation as a whole. The Boards would also work out and execute comprehensive development plans for Nairobi and Mombasa.

137. The Government accepts this recommendation in principle and will make proposals for the constitution of development committees in each of the two Municipalities.

CHAPTER 12—MISCELLANEOUS

138. The Government notes the comments of the Commission on the need to revise and simplify the present Local Government Regulations. The Government proposes to draft a new Local Government Bill following the acceptance of this Paper by Parliament.

NORTHERN AREAS

139. The Commission draws attention to the special problems of membership, finance and staffing of certain Councils in the Northern areas. The Government accepts that because of the relative under-development of local authorities in the former Northern Frontier District, their problems arising out of membership, finance and staffing may need to be handled on a different basis from those of other local authorities in the country.

COMBINED COLLECTION OF REVENUES

140. The Commission recommends that there might be a saving in man-power and cost if the various revenue collection offices throughout the country were merged with the Local Government revenue offices. The Government will review the position.

ALLOCATION OF PLOTS

141. The Commission recommends that it would be desirable to have more Urban Council representation on District Plot Allocation Committees. The Government does not accept this recommendation, as adequate arrangements exist for interests of particular urban councils to be represented on the District Plot Allocation Committee. A District Plot Allocation Committee is a Committee which advises the Government on the allocation of State land which, it should be noted, is land vested in the Government. The Committee includes amongst

others, the Clerk and three members nominated by the County Council in the District and has powers to co-opt additional members who may represent the interests of Urban Councils in the District.

PLANNING

142. The Commission recommends that local authorities should have a statutory right of appeal against the advice and decision of the Commissioner of Lands in respect of planning of State land. The Government rejects this recommendation which suggests that there is a substantial degree of friction between the Lands and Town Planning Departments of Government on the one hand and Local Authorities on the other, and that Local Authorities have forced upon them planning proposals which are unacceptable to them. This is not true. Government's planning proposals are subject to prior consultation with the Local Authority and only rarely, in the interest of sound planning, does it become necessary for Government to insist upon a plan of development which does not closely accord with the Local Authority's view. It would be damaging to sound planning of development of urban areas were the council, whose knowledge of planning requirements is frequently a limited one, to have powers which might result in the expert opinions of the Government Planning Adviser and the Commissioner of Lands being set aside. The Government therefore considers that the statutory right of appeal recommended by the Commission is neither necessary nor desirable as any major difference of opinion is by administrative practice considered by the Ministers responsible for Local Government and Lands.

SETTLEMENT AREAS

143. The Commission comments on the need to inquire into the planning problems of the construction of roads in settlement areas. The Commission makes no specific recommendation and its comments are noted.

BY-LAWS

144. The Commission refers to the general complaint as to delays in having by-laws of local authorities approved. The Government has been aware for some time of this complaint. The delay is unavoidable because of lack of qualified officers and draftsmen in Local Authorities and Government to process the draft by-laws quickly. However, efforts are being made to speed up this processing.

PRIORITIES OF THE REPORT

145. The Commission recommends that certain problems considered in their report should be dealt with in the following order of priority:—

- (a) A decision about the administration of primary education. The Government's decision on its administration of primary education is referred to in paragraph 24 above.
- (b) Income estimates for 1967. This is dealt with earlier in this paper at paragraphs 58 and 59.
- (c) Staffing. Government is already acting on the recommendation to recruit and train additional staff (see paragraphs 112 and 113).
- (d) Co-ordinating Committee—1967 Estimates. See paragraph 60 of this paper.
- (e) Outstanding Financial Accounts. This recommendation is dealt with under paragraphs 99-103.
- (f) Graduated Personal Tax—Review of Procedure. A review has been undertaken resulting in the Graduated Personal Tax Act (No. 38 of 1966).

APPENDIX

INDEX OF RECOMMENDATIONS IN THE COMMISSION'S REPORT

	PAGE OF REPORT
<i>Chapter II—Broad Pattern of Administration of Local Government</i>	
1. Ministry of Local Government must—	
(a) be co-ordinating factor on all local government matters ..	4-5
(b) have a fair allocation of finance and staff	4-5
(c) keep Parliament informed of progress in local government ..	4-5
2. Local authorities must accept broad pattern of control exercised by Ministry of Local Government	4-5
3. Value of ALGAK	4-5
<i>Chapter IV—Composition and Constitution of Local Authorities</i>	
4. Abolition of first-class and second-class status for municipalities and counties	7
5. Joint municipality/county committees for certain services	7
6. Indirect election from area councils to county councils	7
7. Discontinuation of reserved seats	8
8. Continuation of nominated members, especially for "weaker authorities"	8
9. Phasing out of aldermanic system	9
10. Literacy qualifications essential	9
11. Councillors' guide to local government	10
12. Mobile educational team	10
13. Local Government periodical	10
14. Emphasis on Standing Order 21 as to limit of councillors' duties ..	10
15. Mayor or chairman's term of office extended to two years—no immediate re-election	10
16. Four-year term of office for councillors—half members subject to re-election at two-year intervals	10
17. General review of local government areas	11
18. Municipal boundaries to be generously drawn	11
19. Local councils within municipalities should be temporary arrangement	11
20. Urban councils for small towns, with additional taxation powers to provide local services and possibly delegation of services by county council	12
21. Complete review of remaining parts of county to constitute new area councils as second-tier—limited number of meetings attended by county council representative—staff to be employed by county council	11, 12 & 13
22. Scheme of county administration for each county	13

	PAGE OF REPORT
23. Relationship between urban and area councils	12 & 13
24. City status for Mombasa	13
25. Precedence of mayor or chairman on civic occasions	13

Chapter V—Mandatory and Permissive Functions

26. Delegation of county council functions to stronger minor authorities	15
27. Government financial assistance needed to enable local authorities to improve present standard of services	15
28. Need for fixed limits if any educational precepting system—Commission suggest a fixed proportion of graduated personal tax	17
29. However, Commission recommend local authorities retain responsibility for administration of primary education—	18
(a) Statutory education committee, with statutory co-options and statutory duty to maintain acceptable standard of primary education;	
(b) Ministry of Education to co-operate with Ministry of Local Government on education estimates.	
30. Urgent need for decision on future administration of primary education	19
31. Policy decisions should be made in conjunction with decisions as to consequential financial effects	19
32. Clarification as to division of responsibility for health services between Central Government and local government	19
33. Central Government should make contributions to non-Government hospitals	19
34. Full discussion with Ministry of Local Government on maintenance costs involved in expansion of health services	19
35. Periodic review of road classifications	19-20
36. Road maintenance arrangements should be kept under review to avoid duplication	20
37. Housing should come within the scope of local government administration, to avoid duplication	20
38. Services which might be made mandatory for local government—	20-21
(a) Community Development;	
(b) Initial stages of National Development Plan;	
(c) Water distribution;	
(d) Urban road passenger transport.	

Chapter VI—The extent and nature of Central Government control over Local Authorities

39. No alteration in Ministry of Local Government controls over local authorities, but implementation to be improved	24
--	----

	PAGE OF REPO
40. Decentralization of senior local government officers	24
41. Provision for interests of associated Ministers	24
42. Minutes should record that member left meeting after disclosure of interest, otherwise proceedings invalid	24
43. Periodic return from members making general disclosure of certain interests	24
44. Control on tender opening procedure	25
45. Group tenders and centralized tenders	25
46. Division of audit and inspection functions	25
47. Prompt audit essential—suggestions for alleviation of arrears ..	26
48. Special and continuous audits	27
49. Audit reports should be published	27
50. Longer initial period for any commission appointed to run affairs of local authority	27
51. Form of local authority annual reports	27
52. Strengthening of officers' powers in respect of improper payments	28
53. Financial regulations	28
54. Approval of income estimates first	28
55. Fixed date for approval of estimates	28
56. Circulation of summary of Local Government Regulations to officers and members	29

Chapter VII—General Financial Situation of Local Authorities

57. County Council's financial situation a matter for serious and urgent consideration	32/
58. Especially serious position of seven county councils	34
59. Wrong to use special fund balances to finance general services ..	34
60. Less serious situation in municipal councils' expenditure and income	34/
61. Additional revenues to finance local government services must be obtained from existing sources	36/
62. Preferable for local authorities to collect own revenues	32
63. Graduated Personal Tax must provide a major source of local authority income for a number of years	37
64. Consideration whether councils should levy their own rates of Graduated Personal Tax	37/
65. Improvement of Graduated Personal Tax enforcement procedures	38
66. Review of Graduated Personal Tax assessment procedures	38
67. Graduated Personal Tax legislation should be sufficiently flexible to permit local authorities to be fully responsible for assessment and collection in due course	38

	PAGE OF REPORT
68. Improvement in Graduated Personal Tax collection would not, of itself, solve county council's financial problems	38
69. Review of Graduated Personal Tax transmission arrangements ..	38
70. Possible extension of rating	39
71. Possibility of "selective" rating on commercial and industrial properties	39/40
72. Whether valuation on capital site value basis should be continued	39/40
73. Abolition of all produce cesses	40/41
74. Regular review of scales of fees and charges	41
75. Increase in Government grants	42
76. Services must be tailored according to available revenues	43
77. Co-ordination between Central Government and local government in preparing a forward plan of local government expenditure and income over next three to five years	43
78. Consultation between Central Government and local government before announcement of plans or decisions affecting finance and administration of local authorities	43
79. Forward planning of local authorities' capital expenditure programmes	44
80. Suggestions for achieving balanced local authority financial accounts	44/45
81. Simplification of accounts and estimates—working party of Ministry of Local Government and local authorities to consider	45/46
 <i>Chapter VIII—Government Contributions to Local Authorities</i>	
82. Basic principles of any Government grant system	48
83. Difficulties in formulating new grant system	49
84. Present grant system will have to be continued, at increased total, for further two years	49
Meanwhile—	49/50
review of Graduated personal tax;	
decisions on local government areas, range of services, future of rating;	
forward expenditure programme;	
total acceptable level of grants.	
85. Discussions on adequacy of road maintenance grants	50
86. Means of ensuring road maintenance grants properly applied ..	50
 <i>Chapter IX—Local Government Staff</i>	
87. Immediate need to fill ten senior financial posts in Ministry of Local Government	52
88. Local authority staff needs	52
89. Intensive search for book-keepers amongst Kenya citizens ..	53

	PAGE OF REPORT
90. Any staff recruited from overseas should have an aptitude for training	53
91. Joint recruitment of any overseas staff for Ministry and local authorities	53
92. Expansion of local training schemes	53
93. Use of graduates	53
94. Recruitment of 12 juniors for bonded apprenticeship	53
95. Week-end courses in various parts of the country	53
96. Suggestions for a Local Government Staff Commission in relation to appointments—	53/5
responsible for all appointments, but would normally delegate all except chief officer and deputy appointments;	
advertisement of all chief officer and deputy posts, and short list to be selected by joint committee of Local Government Staff Commission and local authority;	
local authority would make final selection from short list.	
97. Details should be discussed with ALGAK.	55
98. In view of need to co-ordinate staffing with other local government problems, separate staff commission, within ambit of Ministry of Local Government, but with independent chairman and members	55
99. Co-ordinating committee of chairmen and secretaries of all staff commissions	55
100. Society for chief officers	56
101. Emphasis on Standing Orders Nos. 21 (extent of duties of members) and 15 (discussion of staff matters)	56
102. National rules on staff discipline	57
103. Overlapping between local government and provincial administration will have to continue for the time being	57
104. Possibility of diverting some officers from provincial administration into full-time local government service	57
105. Scope for better working relationship between local government and provincial administration	57
 <i>Chapter X—Allowances to Members</i>	
106. Mayors' and chairmen's allowances	58
107. Overnight allowances	58
108. Actual travelling expenses	58
109. Relationship of all public bodies' scales of allowances	58

Chapter XI—National Development Plan

110. County committees, including mandatory co-options, to draft proposals, advise as to priorities, and control implementation of development schemes	59
111. Special Development Authorities for Nairobi and Mombasa ..	59

Chapter XII—Miscellaneous

112. Revised issue of Local Government Regulations	60
113. Special problems of membership, finance and staffing in northern areas	60
114. Combination of revenue collection arrangements	60
115. Adequate representation of minor local authorities in plot allocations	60
116. Right of appeal by minor local authorities on planning matters ..	60/61
117. Roads and water supplies, etc., in settlement areas	61
118. Services for minority groups in local government areas	61
119. Need to expedite approval of by-laws	61/62
120. Priorities of the Report	62

Chi