

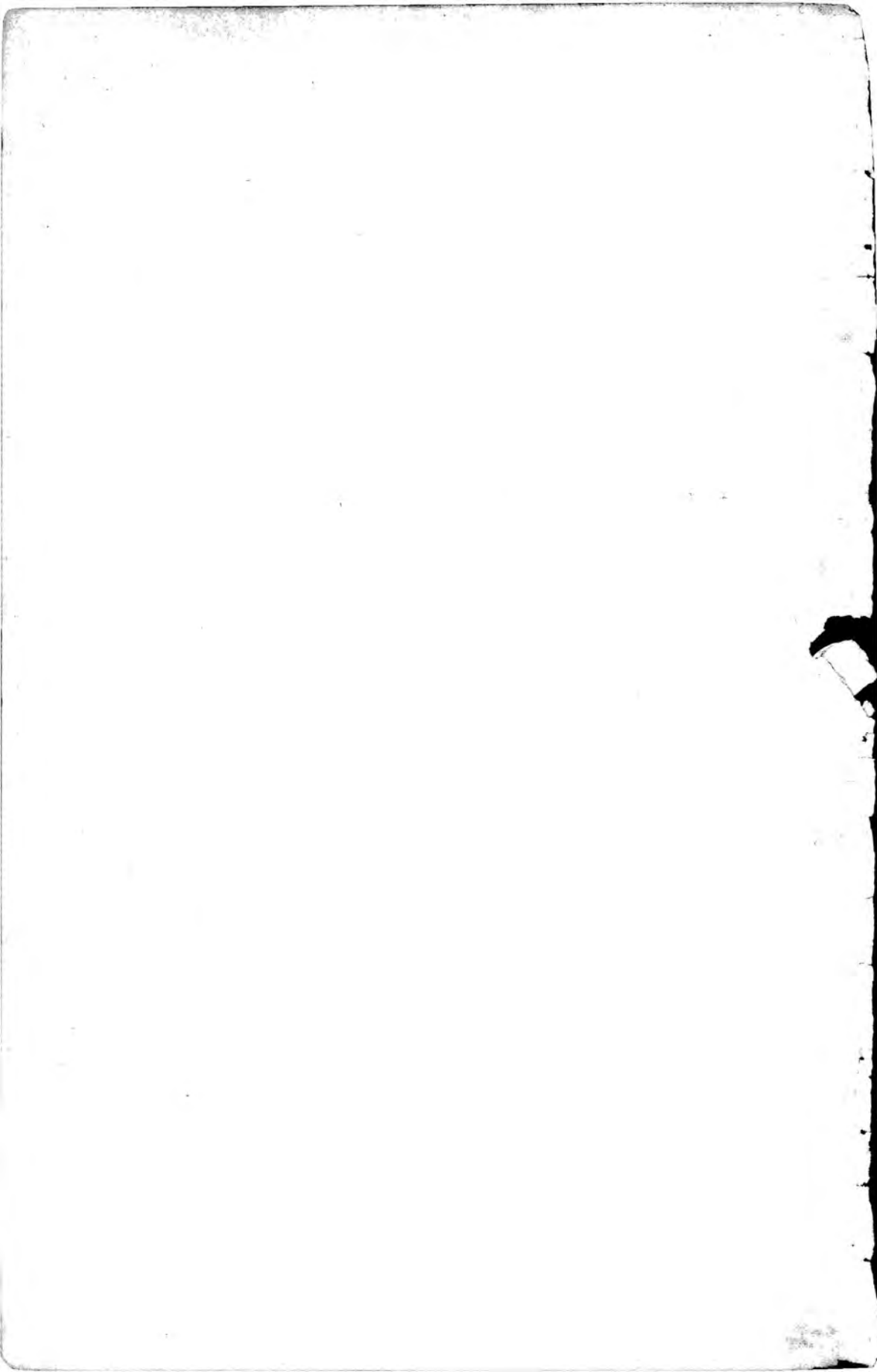
REPORT OF THE COMMISSION OF INQUIRY

into alleged corruption or other malpractices
in relation to the Affairs of the Nairobi
City Council

December, 1955-March, 1956

Together with:

- Kenya Government Notice No.
1693 of 8th December, 1955,
appointing the Commission ... Appendix 1
- Alphabetical List of Advocates who
appeared before the Com-
mission Appendix 2
- Alphabetical List of Witnesses and
the dates upon which they
gave evidence Appendix 3



HIS EXCELLENCY, THE HON. SIR EVELYN BARING,
K.C.M.G., C.M.G., K.C.V.O.

YOUR EXCELLENCY,

On 22nd August, 1955, there was a resolution of the Finance Committee of the Nairobi City Council recommending that the Minister for Local Government, Health and Housing be asked to arrange for the holding of a public inquiry into the work of the City Council. This resolution formed part of the report of the Finance Committee which was subsequently approved at an ordinary monthly meeting of the City Council on Tuesday, 30th August, 1955. Pursuant to this, we were appointed by Your Excellency on the eighth day of December, 1955—

- (a) to inquire into, consider and report upon alleged corrupt or other malpractices in relation to the affairs of the Nairobi City Council;
- (b) for the purpose aforesaid, to inquire into any allegations or indications that any past or present members, officers or servants of the Council have sought, received, or have been offered or promised bribes, illegal gratifications, secret commissions or other corrupt or improper payments, gifts or considerations, or have exercised improper influence, or abused or exploited their office or status for personal gain or advantage for themselves or for personal gain, loss, advantage or disadvantage of any other person; and
- (c) if any corruption or other malpractices have taken place, to report in what circumstances the same took place and what persons were involved.

2. The two members of the Commission who came from overseas arrived on 13th December and after the necessary preliminaries the Inquiry began on 19th December, 1955. Between that date and 27th March, 1956, 66 public sessions were held and 90 witnesses were heard. In addition affidavits were received from two witnesses who were in London and requested through their advocates that their evidence on affidavit be accepted. We would point out that although we caused a public announcement to be made in the Press that any applications from any witnesses who might wish to give evidence in camera would be considered by the Commission on their merits, no such application was, in fact, made.

3. During the course of the Inquiry, we found occasion to visit African housing estates at Ofafa and Mbotela, the Ngong Road water main, Tigoni and Timau roads and trenching at Nairobi West, Mtoni and the Hill district.

4. We also caused it to be announced in the Press that any persons against whom allegations might be made would be given the opportunity to refute any such allegations, to call evidence in rebuttal and to be represented by Counsel if he so wished. In the event, 14 advocates were so instructed. In addition, two Crown Counsel on the instructions of the Attorney General appeared to assist the Commission as *amici curiæ*.

5. As is inevitable in proceedings before a Commission of Inquiry, a considerable amount of evidence was adduced which would not be admissible in civil or criminal proceedings in a Court of Law. While, of course, it is not the practice to exclude this type of evidence at the time it is submitted, we have come to no

Note.—References embodied in various paragraphs relate to the verbatim Record of the Proceedings.

findings adverse to any individual except on the basis of such evidence as would properly be admitted in a case in which he was a party and his conduct was in question.

6. Although Crown Counsel did not find it necessary to open the facts to us at the outset of the Inquiry, we considered at its conclusion, having regard to the considerable body of evidence that had been adduced, that it would be reasonable to invite any advocate who felt inclined to do so to address us. Five advocates representing individual interests, availed themselves of this invitation.

7. We would add that either in our personal capacities or collectively we have received a few anonymous letters containing complaints and allegations against individual members of the Council and the general system of administration. We have ignored these communications. We have also received a number of signed letters from individuals and associations raising matters which we regarded as falling outside our terms of reference. We caused these correspondents to be informed that the matters referred to were outside our terms of reference and that we were unable to intervene. In certain cases these letters were forwarded to the appropriate authority for consideration.

AFRICAN HOUSING

8. The first subject to which our attention was called was that of African housing.

Two or three years ago, the City Council decided to erect African housing estates, the Doonholm Triangle Housing Scheme which we will hereinafter refer to as the Mbotela estate, and the Doonholm Neighbourhood Scheme which we will hereafter refer to as the Ofafa estate. It was decided to call for tenders for the construction work.

9 It is convenient to deal first with the Ofafa scheme, Stage 1 Part A. The contractor for this contract (Contract No. 60) was Mr. Chanan Singh. The commencing date of the contract was 26th April, 1954, and the contractual completion date was 6th December, 1954. Work on the contract was stopped on 1st June, 1955, and the contractor was expelled from the site on 28th June, 1955.

10. Mr. Mould, who was Acting Architect in charge of the African housing estates from 14th March, 1955 (B.16 19-12-55), told us that he received a lengthy report (Exhibit C (3)) of defects concerning the work in connection with Contract No. 60 from Mr. Goodwin who was Clerk of Works in June, 1955. This report runs to 23 typewritten pages, but it is perhaps fair to summarize the defects as weakness in foundations (pockets of black cotton soil being found below foundation concrete) leading to sinking of, and cracks in, walls; concrete and mortar mix below specification; badly dressed building stone; hoop iron reinforcement and damp courses in walls not in many cases according to specification; faulty construction of and crooked fixing of lintels; warped roof timbering leading to waves in roofs and consequent bad fitting of tiles (this fault likely to increase); broken tiles; doors often defective and badly hung; concrete floors cracking, due mainly to the "back fill" not being in accordance with specification or properly consolidated (large boulders and excavated black cotton soil and general building debris often incorporated in the "back-fill" and faulty chimney flashings.

11. On 14th January, 1956, we visited the Ofafa and Mbotela estates. With regard to the contract with which we are now concerned, we are satisfied from our own observations of the existence of the defects to which we have referred in the preceding paragraph (C.8 16-1-56). Moreover, during our inspection some partition walls in the ablution blocks were pushed over by one man with little effort.

12. Mr. Chanan Singh, who was present at our inspection and who had previously given evidence before us, drew our attention to certain matters that he regarded as important. In his evidence, he defended his workmanship and took up the position that Mr. Mould's and Mr. Goodwin's criticisms were unjustified (A.3, A.14 and A.22 5-1-56). For the reasons that we have given, however, we accept the view of the position as given by Mr. Mould and Mr. Goodwin, a view which, as we have already pointed out, was in our opinion supported by our own inspection.

13. As regards Ofafa, Stage I Part B (Contract No. 73), the contractor was Mr. Ata-Ul-Haq. The commencing date of the contract was 28th June, 1954, and the contractual completion date was 18th April, 1955. While the contractor himself claimed that all building was completed in July, 1955, in fact the Council found it necessary on 18th November, 1955 (A.1 29-12-55), to notify the contractor of their decision to complete the work by direct labour at once. Work by direct labour in fact commenced on 28th November, 1955.

14. We are satisfied that there were substantial defects in the construction work of this contract also and that Mr. Mould's criticisms were justified (A.13 29-12-55).

15. With Ofafa Stage I Part C (Contract No. 75) the contractor was the Colonial Construction Company. The commencing date of the contract was 5th June, 1954. The contractual completion date was 31st January, 1955. Here again the contractor took up the position that all building was completed by June, 1955, but here too the Council found it necessary to notify the contractor (on 21st November, 1955) of their intention to complete by direct labour in order to bring the houses up to the requirements of the contract. We would add that while we accept Mr. Mould's evidence that some portion of the work in this contract was not up to specification standard, it would seem that the general level of the work was not quite so low as in either of the two contracts with which we have already dealt (A.2 *et seq.* 30-12-55).

16. The value of the Ofafa contract Stage I Part A was £80,772; of Stage I Part B £85,475; and of Stage I Part C £60,568. Mr. Mould dealt at considerable length in his evidence with the financial implications of the unsatisfactory nature of the work on the three contracts. His recommendation was that, at any rate as regards Parts A and B, in the long run it would reduce the financial loss of the Council if the Council demolished and reconstructed the buildings (B.19 20-12-55; B.20 28-12-55). In the event, however, the Council decided—and we see no reason to criticise the decision—to demolish certain blocks but as regards the remainder to endeavour to bring them up to the required specification standard by supplementary work.

17. Whichever course is adopted, it is regrettably obvious that a substantial financial loss to the Council must result. An exact estimate of such loss is at this stage difficult to arrive at, but Mr. Mould suggested that it would be substantial and that in addition the cost of maintenance would be excessive. Mr. Salmon, who has recently been appointed City Engineer—we would add that his appointment was made after the relevant episodes in the history of these contracts and that therefore he bears no share of the responsibility—gave evidence before us and produced a report (Exhibit 362) which, in its origin, was a confidential report to the Chairman and members of the Works Committee, but in fact had become public property owing to circumstances to which it is unnecessary to refer. Mr. Salmon told us that from his investigations it would seem that the state of African housing was more serious than was at first suspected. He added that his

report (A.2 1-3-56) was at this stage only provisional and subject to variation as the result of investigations which were still proceeding; and that it should be regarded as being merely an outline statement of the position as he saw it at the time. We fully accept and appreciate the reasons why Mr. Salmon has made these reservations, but the significance of his report, in our opinion, is that, although details may differ, it in substance fully supports Mr. Mould's opinion that, whatever course the Council now adopt with regard to the houses on these estates, serious financial loss must inevitably result.

18. The date of Mr. Salmon's report was 13th February, 1956, and he told us that its purpose was to place the matter in round terms before the Works Committee of the Council. The relevant part reads as follows:—

“To overcome this problem, as I see it, there are four alternatives, all in their way extremely costly:—

- (i) To rectify the defects as far as is practicable, that is, adjust the roofs, rake out and re-point the joints above and below ground, take up the floors and back-fill and re-lay, underpin the foundations and attend to many minor miscellaneous items, may well cost (in very round figures):—

	£
Part A (compared with contract sum £80,000)	71,240
Part B (compared with contract sum £85,000)	62,000
Part C (compared with contract sum £60,000)	47,000
Total contract sums: £225,000	
	<hr/>
Approximate total cost to repair	£180,000
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- (ii) To completely demolish the buildings on all three contracts and rebuild as originally specified:—

	£
Demolition cost	7,000
To rebuild—using about £60,000 of salvaged material— added to which would be the cost of a further £60,000 of material	240,000
	<hr/>
Total	£247,000
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- (iii) To completely demolish the buildings and sell the £60,000 worth of salvaged material and replace the existing houses with the more economical ones designed for the joint Government/City Council Scheme. It is not possible to quote costs as it would depend on the types of houses used—single or double-storey and the density achieved.

- (iv) To leave the buildings as they stand, to rectify some of the defects now, and to anticipate a shorter life with undoubtedly more than normal maintenance.

Over a period of 20 years, if that could be obtained, the rent received would be in the region of £580,000, but a considerable amount of this sum would have to be credited to interest on the capital loan, maintenance and administration.

As stated before, the figures quoted depend on investigations not yet completed.”

19. With regard to the three Mbotela contracts, that is to say Stage I Contract No. 34 and Stage II Contracts No. 56A and No. 56B, the contractors were Naranjan Singh Brothers, Abdul Haq and Coronation Builders respectively. Mr. Salmon's report does not cover this estate. The evidence produced to us has been somewhat conflicting (B.12 30-12-55), but we are satisfied from what we have been told and by what we saw (A.5 to A.14 11-1-56) when we inspected the buildings that much of the work of construction is below specification (C.7 16-1-56), and that this applies particularly to weak mortar and hollow vertical joints in the walling and cracks in floors (A.4 *et seq.* 12-1-56). It was established that maintenance costs in the years ahead will inevitably be excessive (A.22 30-12-55), and that the cost will fall on the ratepayers as the houses have now been taken over (A.13 11-1-56).

20. Only a single voice was raised before us in support of the contention that the work on Ofafa was up to the specification. Mr. McConnel, an engineering consultant in Nairobi, made the point that the specification on Ofafa estate Parts B and C was the lowest of any type of native housing he had ever had anything to do with, but that the work on this estate did come up to this admittedly low standard (A.29 21-3-56). While we agree with Mr. McConnel that the specification was indeed of a low standard, we do not consider that his inspections of the Ofafa estate, in view of the admittedly short time which he was able to spend upon the task (A.34 21-3-56), were sufficiently detailed to enable him to give a considered opinion. His evidence therefore does not lead us to doubt our conclusion, based upon the other evidence which we have heard, that the work on these schemes fell below the specification, low as that may have been.

21. It now becomes necessary to consider where the responsibility lies for this deplorable state of affairs. As to the choice of contractors, we would point out first that with regard to all the contracts, both at Ofafa and at Mbotela, all the firms who tendered were Asian firms. (B.26 *et seq.* 15-3-56). Mr. Bridger, who at the relevant times occupied the post of City Engineer, told us that the contractors were, taken by and large, a "grisely crew" (B.26 *et seq.* 15-3-56). He also agreed that Mr. Chanan Singh—whose performance was notably bad—was perhaps one of the weakest members of a weak company. By way of illustration we would refer to the following comments which were made on Mr. Chanan Singh by way of reports by certain architects and others. One referee says of him just "No good"; another "Not much good", adding that he thinks he has "improved"; and another "would not dream of employing him". These three referees are well known Nairobi architects. One other referee recommended Chanan Singh. One thought him "reasonable" whatever that may mean, and Mr. Tanner left a note about Mr. Chanan Singh in his own handwriting (A.7 21-12-55) worded as follows: "Seven schemes average of Sh. 450,000 (have been inspected) and the workmanship is average. More recent buildings show a definite improvement."

With regard to the other successful tenderers, the reports, where they existed at all, were certainly not favourable. For example, in the case of one such contractor, a leading firm of Nairobi architects (A.8 21-12-55) said: "Crafty, probably worse than Chanan Singh." Moreover, there were two items of evidence that, in our opinion, underlined the fact of the inadequacy of Mr. Chanan Singh's financial standing (B.14 5-1-56; B.11 13-1-56). First we have a small item deposed to by Mr. Stone (Clerk of Works)—and which was admitted by Mr. Chanan Singh and which we have no reason to doubt—that on a week-end in 1954 Mr. Chanan Singh asked Mr. Stone to lend him £200 so that he could pay his labour. Although Mr. Chanan Singh promptly repaid this loan, the point that seems to us slightly disconcerting is that a contractor entrusted with an £80,000 contract should find it necessary, for however short a period, to seek accommodation for so relatively trifling a sum as £200 from the Clerk of Works.

22. Secondly, we have the fact that when some doors were being ordered from Messrs. Hutchings Biemer, Limited—a matter which in its general aspects we shall find it necessary to comment upon later—we have the position that the firm thought it advisable to arrange for the liability for payment to rest with the Council and not with Mr. Chanan Singh the contractor, for the reason that they had not sufficient confidence in Mr. Chanan Singh's financial standing.

Moreover, from the evidence of Mr. C. M. Patel, Mr. Chanan Singh was in the habit of borrowing substantial sums at high rates of interest from Mr. Patel in order to finance his (Chanan Singh's) business.

23. The decision of policy having been made that these schemes of African housing should be put out to contract, and having regard to the admitted unsuitability of the available contractors, it is apparent that the question of the provision of adequate and even exacting supervision becomes of paramount importance.

24. The position as to this vital matter may, we think, be fairly summarised as follows: Mr. Bridger, the City Engineer at the relevant period, was, according to his own account, heavily committed by extraneous duties largely of a public nature (A.19 9-3-56), and was too busy to be able to exercise any effective supervision over African housing (B.1 9-3-56). In practice, he relied upon the architect in charge of the scheme, Mr. Tanner. Mr. Tanner, in a letter to Mr. Mould which was adduced in evidence before us (Exhibit E(5)), stated that while he himself signed the payment certificates, he relied upon Mr. Stone—the Clerk of Works at the material time—who was the person actually on the site and responsible for the measurements on which the payments were based, and Mr. Stone himself tells us (C.55 13-1-56) that it was difficult for him to get round the various housing estates so as to be able to make an effective inspection. We have no hesitation in accepting Mr. Stone's view of this matter, having regard to his age, which was in the late sixties, and to his physical infirmity of lameness. Mr. Stone told us that his only assistant to enable him to perform his manifold duties on these two estates was an African who was "weak in the head" (C.47 13-1-56).

25. It is apparent from the picture that has so far been painted in respect of these housing schemes that the arrangements for supervision were woefully inadequate, due in the main very probably, as Mr. Bridger told us, to shortage of qualified staff (B.11 to 16 9-3-56)—a condition which seems to have persisted throughout the period of these contracts and, indeed, even up to the present time. Surprisingly enough Mr. Bridger does not seem to have made any serious attempt to remedy this situation. In this connexion Mr. Mould, who succeeded Mr. Tanner in June, 1955 (B.6 30-12-55), told us that when it became necessary to check the maintenance work on Mbotela estate Stage II Contract No. 56 A, he found himself in the position of having only one European assistant at his disposal out of a cadre of six (B.6 30-12-55). We would point out that there was no evidence before us either from any of the permanent officials of the Council or from any of the Councillors that there was any specific representation made at any stage to the Councillors that the staff situation as regards qualified men was dangerously inadequate having regard to the Council's extensive commitments. In the absence of such representations, we feel that the Council as a whole cannot reasonably be criticised for deciding to press ahead with these African housing schemes, which we are told on general grounds of policy was imperative. We are inclined to the view, however, that after attaching full weight to the failure of the permanent officials to register a warning, the Councillors cannot be divested of a certain vicarious responsibility for the unhappy position that has resulted on these African housing estates.

26. The immediate responsibility, however, in our opinion must be placed upon the City Engineer. Mr. Bridger himself conceded that this was so (B.13 9-3-56). In a reply to a question from his own advocate: "To what do you attribute the irregularities that have been alleged?", he answered, "Very largely to my own fault, Sir. It is my fault that I attempted to do too much work with too little staff. I was faced with the position of either going along to the Council and saying: 'These very necessary works cannot be done because we have not got adequate people for the proper planning, checking and supervision;' or alternatively, of trying to get the work done knowing that the planning and supervision were somewhat tenuous, knowing that it meant asking the staff to do more than is normal. But I took the second course of trying to get the work done rather than saying it could not be done, because I thought that if I said it could not be done we should throttle the development of the town. And I took the risk of doing work, well knowing that it was placing too big a burden on the staff."

Mr. Bridger's answer of course related not only to the African housing schemes but to the state of affairs disclosed by our inquiry into the activities of Mr. Whipp, the Water Engineer, and Mr. Wallace, the Fire Master, and indeed to irregularities generally in the whole of his department. As regards the particular matter of African housing, Mr. Bridger, while admitting his general responsibility, stated that in fact he relied upon the Architect in charge of African housing who at the relevant time, as we have already stated, was Mr. Tanner.

27. Mr. Tanner is at present employed in a professional capacity in Beirut and unfortunately found it impossible to come before us to give his own explanation of matters with which he was concerned. He possesses adequate professional qualifications, but his previous professional and Local Government experience had been very limited (he is at the present date only about 30 years of age), and this, we were told, was his first considerable outside assignment, a circumstance which Mr. Bridger should have borne in mind. Whatever the general responsibility of Mr. Bridger may be, we regret to have to state that in our opinion the main practical responsibility for the unhappy state of affairs in these African housing estates must rest upon Mr. Tanner. Both from the evidence that was adduced before us and from our own inspection of the workmanship on the sites themselves, we are unable to come to any other conclusion but that any qualified man such as Mr. Tanner (or indeed Mr. Bridger) must have become aware of the defects in workmanship if he had made adequate inspection. We would point out that both Mr. Mould and Mr. Craig-McFeely, Assistant Architect to the City Council, promptly noticed these defects when they assumed responsibility for the supervision. No doubt Mr. Bridger's attitude, as he himself told us, was that the African housing schemes should be pressed on without too strict a regard to the standard of workmanship, but there is nothing in the evidence to suggest that Mr. Bridger would at any stage have condoned a substantial falling below the specification standard in the work had the matter been squarely represented to him. If therefore Mr. Tanner made adequate inspection we consider that it was eminently his professional duty to make definite representations to Mr. Bridger that the work had fallen substantially below the specification standard. We are however of the opinion that Mr. Tanner in fact did not make adequate inspection. Not only does he himself in his letter to Mr. Mould, to which we have already referred, take up the position that when signing the payment certificates he relied upon the Clerk of Works, Mr. Stone, as being the person who was actually on the site and responsible for the measurement on which the payments were based, but there is a body of evidence that his visits to the site were few, perfunctory and far between (B.28 29-12-55; A.9 3-1-56).

The only item of evidence which might be said to indicate the contrary related to certain car mileage claims preferred by Mr. Tanner (B.17 13-1-56;

C.6 13-1-56). It appeared from these that he contended that he had paid no less than 17 visits to the Ofafa estate in July and almost daily visits in October and November, 1954. Having regard to the positive evidence we have heard from the relevant witnesses that Mr. Tanner failed to make regular visits to the site, we are not disposed to draw any contrary inference from the fact that these mileage claims record repeated visits to the site. In the absence of any explanation from Mr. Tanner, we do not consider that there is sufficient material before us to entitle us to draw the inference that these mileage claims necessarily represent that Mr. Tanner made any considerable inspection of the sites on the dates in question (B.33 and 34 30-12-55; A.1 to 9 3-1-56).

It must be understood that we are not in any way condoning the submission ^a false or inaccurate car mileage claims. We are merely pointing out that in the circumstances of this particular case and in the absence of any explanation from Mr. Tanner there is insufficient material before us to enable us to draw any conclusive inference.

28. With regard to Mr. Stone, it appears to be common ground, and conceded by himself, that he was the person who was in fact responsible for certifying the accuracy of the measurements on which the payments were based. In addition, of course, his office imposed general duties of inspection of the works in question. We are quite satisfied—and indeed Mr. Stone himself does not contend to the contrary—that not only did he not make adequate inspections of these comprehensive sites but that, owing to his age and infirmity, it would have been impossible for him to do so which should, we suggest, have been apparent to Mr. Tanner. Nevertheless, Mr. Stone—as he would probably be the first to admit—failed to carry out the duties of his post (A.1 28-12-55). In this connexion, it is perhaps only fair to Mr. Stone (A.3 12-1-56) to point out that he told us that he only accepted these Ofafa and Mbotela duties under protest on the ground that the work involved was beyond his capacity.

29. With regard to Mr. Stone, we must now deal with certain allegations of corruption that were made against him. It is perhaps almost inevitable that where a heavy financial loss is incurred by the ratepayers as a result of inadequate supervision and an incompetent contractor, suspicion should attach to the person—in this case Mr. Stone—who was actually on the site and responsible for the measurements on which payment certificates were based. The actual allegations against Mr. Stone were as follows (B.13 *et seq.* 21-12-55): First, there was an allegation that a substantial quantity of liquor was delivered at his house by Mr. Chanan Singh and Mr. Gulchand Singh, his brother, presumably to ensure favourable reports on the work. The evidence does not seem to us to establish any corrupt gift and we regard this allegation as unproved (B.20 *et seq.* 21-12-55). Secondly, there was evidence that Mr. Stone found it necessary to have his motor-car repaired at a garage (B.12 5-1-56) and that he asked Mr. Chanan Singh, the contractor (B.11 13-1-56) to accommodate him temporarily by paying this bill, which amounted to some £50. Mr. Stone agreed that he made this request but referred to the fact, to which we have already adverted in another connexion, that he had previously lent Chanan Singh £200 to enable him to pay his labour (B.14 5-1-56). While we are of opinion that Mr. Stone was unwise in asking Mr. Chanan Singh for this accommodation, we are not disposed to conclude that any corrupt motive was involved (B.2 *et seq.* 5-1-56). Thirdly, there was a matter concerning the delivery of some sand and ballast to Mr. Stone's house. Mr. Stone tells us he repeatedly asked for the bill to be sent but was unsuccessful. It appears that subsequently Mr. Stone made a payment of £25 on account. Although it is true that this payment was only made after investigations by the Criminal Investigation Department had begun, we are not disposed to hold that

any corruption was involved, although in this case again we think that Mr. Stone was unwise (B.20 and 21 5-1-56). Lastly, it appears that Mr. Chanan Singh was in the habit of giving occasional bottles of brandy to Mr. Stone for the benefit of his wife, who was in poor health, the suggestion being that the brandy in question could only be obtained at a source known to Mr. Chanan Singh. While we have little doubt that this was merely a disguised form of present, we are not disposed to attribute any corrupt motive either to this transaction or to the matter of a tarpaulin which was apparently provided by Mr. Chanan Singh to shelter one of Mr. Stone's cows which was sick (B.19 5-1-56).

30. We referred in passing to the question of the doors in use on the Ofafa estate. These were supplied by Messrs. Hutchings Biemer, Limited, in substitution for other ledged, framed and braced doors which were required by the specification and which were alleged to be unsuitable. Mr. Somen, managing director of this firm, who at the relevant time (October, 1954) was Deputy Mayor, tells us that Mr. Chanan Singh asked his firm to supply 400 flush panel hardboard doors. Mr. Tanner subsequently approved this order. Mr. Somen told us, and we accept his statement, that neither Mr. Chanan Singh nor Mr. Tanner inquired from him or from any representative of his firm whether that particular kind of door was suitable for the particular use for which it was required.

31. The first question that we have to consider is whether the doors supplied by Messrs. Hutchings Biemer were, in fact, suitable. Of the 400 doors supplied, 361 of which were actually hung on the site, no less than 207 were half panel doors (Exhibit 85). Mr. Schwartz, Superintendent of the Workshops, Public Works Department, told us that he himself would not have accepted half panel doors. Indeed he went so far as to say: "A reputable manufacturer would not make a door like that unless he was stuck for material." (A.3 13-1-56.) And Mr. Somen himself told us that he considers now that Mr. Tanner should not have passed these half panel doors; and that he himself regrets that his firm did not take up the position that they were unable to supply more than the 193 single panel doors which were available (B.28 21-3-56).

"MR. SOMEN: He (Mr. Tanner) saw a sample of half panel doors before any were put in hand, and passed it.

SIR ALAN ROSE: Do you think now, looking back on all this, that Mr. Tanner was right to pass it? I mean, knowing what you know now about how these half panel doors have stood up?

A. No, Sir.

Q. He was wrong?

A. I think he was wrong and I believe that we were wrong in not saying we just could not supply, Sir."

We would add that on our own inspection of a number of these doors on site we have no hesitation in accepting the view that these doors were quite unsuitable for the required external use. We would point out that although the doors were hung on a narrow verandah, they were nevertheless exposed to the elements.

32. Accepting, therefore, that the 207 half panel doors were unsuitable, we have now to consider whether the remaining 193 single panel doors (154 of which were actually hung on the site) were of a suitable type for the purpose. In so far as our inspection served to show, it appeared that these doors have not in fact stood up to requirements. On this matter, Mr. Somen's position is that had the doors been properly stored and adequately treated they would have served their purpose (A.1 to A.33 13-1-56). Mr. Schwartz's position was that these hardboard doors, whether single panel or half panel, are not in fact designed for external use. By

the phrase "external use", he meant being placed in a position of exposure to the elements such as rain and sun. From the appearance of many of the doors in question, it would seem to be clear that they have neither been painted nor even adequately treated with solignum, by which we mean treated with some form of tar derivative. No doubt a door of this type that was treated with solignum or, preferably, painted would be better able to withstand exposure to the elements. But we accept Mr. Schwartz's opinion that no treatment, either by solignum or even by paint, can render a door that is not designed for external use entirely satisfactory for that purpose.

We would add that Mr. Somen's position was in the main supported by Mr. Rosenberg, the company's secretary. Mr. Rosenberg, however, did not himself claim to be very familiar with technical matters and we do not therefore feel it would be right for us to attach much weight to his views.

33. A point was made by Mr. Somen that the deterioration of the doors may have been contributed to by defective storing. It was suggested before us that the correct way of storing doors of this type was to place them indoors in flat piles each door being separated by battens. While no doubt this would be a very satisfactory method of storing, we agree with Mr. Schwartz that such a method is quite unnecessary for the proper preservation of the doors, provided of course that battens are placed below the bottom door of each pile (A.10 12-3-56).

34. To summarize, therefore, we have come to the conclusion that the half panel doors were entirely unsuitable for the purpose for which they were to be used and should never have been accepted by the architect in charge of the scheme; that the single panel doors were also unsuitable for the use for which they were intended, although we are prepared to concede that the perfunctory treatment that they received, presumably at the hands of the contractor, may well have accelerated their deterioration. Incidentally, in the course of the technical evidence before us, the question was briefly discussed as to whether there was any defect in the manufacture of the doors, as this would have a bearing upon the practical value of the guarantee that was given. With regard to the 193 single panel doors, we have no reason to suppose—and no evidence was adduced before us—that they would not have been perfectly suitable for internal use.

35. The next point to be considered is how this contract for the supply of these doors came to be entered into and who, if anyone, was to blame.

Having regard to Mr. Somen's own expression of opinion—with which we find ourselves in entire agreement—that Mr. Tanner should never have accepted the half panel doors, it is particularly unfortunate that Mr. Tanner himself was not available to give us his own explanation. In his absence, we must of course endeavour to arrive at the history of the matter from the remaining evidence. It would appear that at some stage, Mr. Chanan Singh, the contractor, came to the conclusion that the doors as specified in the original contract—that is to say ledged, framed and braced doors—were in the event proving unsuitable in that they were too heavy for the specified door frames. We agree with Mr. Schwartz (A.1 to A.33 13-1-56) that there is no substance in this contention and it is our own opinion, in which again we stand with Mr. Schwartz, that these ledged, framed and braced doors were of quite suitable design for external use on African housing, provided always, of course, that they were soundly constructed and received adequate preservative treatment. Be that as it may, the position would seem to be—and Mr. Somen agrees—that it was Mr. Chanan Singh, the contractor, who signed the actual order to Messrs. Hutchings Biemer for the full 400 doors, a condition being made that the financial responsibility should rest with the City Council. On this matter, Mr. Mould says in answer to a question as to who

ordered the replacement doors from Messrs. Hutchings Biemer: "I can find nothing in writing in these files to show who ordered the doors. All there is in writing is a letter from Mr. Tanner to Mr. Chanan Singh instructing him to collect these doors as there was a considerable number awaiting collection."

36. With regard to the question of financial responsibility for the payment for the doors, we have already commented on the significance of this episode in regard to Mr. Chanan Singh's financial standing as a contractor. We do not in any way suggest that Messrs. Hutchings Biemer, as a firm, were acting in any way improperly in taking the view that they were not sufficiently confident in Mr. Chanan Singh's standing to be prepared to rely upon him for payment. The significance of the episode of course is—to which we have already adverted—that a contractor who had only recently been entrusted with an £80,000 contract on behalf of the City Council was not regarded by a responsible firm such as Messrs. Hutchings Biemer as being worthy of confidence in respect of a relatively small contract of a value of approximately £1,300.

37. There was no evidence before us to show—and we are satisfied that the contrary was the case—that Mr. Tanner ever sought covering approval for this substantial replacement order. Moreover there is evidence from Mr. Gorton, the Council's Internal Auditor, that at any rate leads to a suspicion that Mr. Tanner may perhaps have wished to distract attention from the fact that this replacement order was going to result in a substantial increase in cost to the Council (A.9 to A.11 12-1-56). The relevant evidence is as follows:

"Q. Would you look at this document which is Exhibit 78, please Mr. Gorton, and if the witness could have back Exhibit 95, please.

(Document handed to witness).

I think you have seen that before. Is it a copy of the Variation Order?

A. Yes, it is the copy of the Variation Order on this Contract No. 3733.

Q. And the price of the doors, which were to be varied, was Sh. 55, was it not— In that left-hand column?

A. Yes.

Q. And the price of the new doors was Sh. 65?

A. That is correct.

Q. Leaving a Sh. 10 difference?

A. Yes.

Q. Look at Exhibit 95. A note from Mr. Tanner to the City Treasurer. Anyone reading that note would have the impression that Chanan Singh was paying the whole difference, would they not?

A. Yes, I would say so.

Q. And anyone looking at the Variation Order would think that the difference was only Sh. 10 per door?

A. Yes.

Q. Which Chanan Singh was to pay?

A. According to this memorandum Chanan Singh was to pay the whole lot."

It is common ground that the contract price of the ledged, framed and braced doors was Sh. 45 (not Sh. 55), i.e. Sh. 20 (not Sh. 10) cheaper than the replacement doors, and that the arrangement in fact was that the additional pound was to be met equally by Mr. Chanan Singh and the Council.

We have already stated our conclusion that the replacement doors were unsuitable; that there was no good ground for the change from the type originally specified in the contract; and that at any rate with regard to 207 of the 400 doors they should never have been accepted by Mr. Tanner. The result of the whole matter is that the Council unhappily find themselves in possession of a number of unsuitable doors at a substantially higher cost than was specified in the original contract. For this situation we regretfully, but unhesitatingly, must place the prime responsibility upon Mr. Tanner who, in our opinion, signally failed in the performance of his professional obligations to the Council.

38. We would like to make it clear that so far as Messrs. Hutchings Biemer, the firm, are concerned we see no ground for any criticism of their action in regard to this matter, except of course in so far as they did in fact supply a number of half-panel doors rather than admit their inability to comply with the original order which was for single panel doors. They were merely, in our opinion, in the position of a firm of manufacturers who sold to a client, i.e. the Council, whose interests they were entitled to assume were fully protected by the part played in the negotiations by their (the Council's) fully qualified Architect, Mr. Tanner.

ALDERMAN I. SOMEN

39. A slightly more difficult question arises as to whether Mr. Somen himself is deserving of any criticism having regard to his dual position as Deputy Mayor on the one hand and managing director of Messrs. Hutchings Biemer on the other. We feel that Mr. Somen himself upon reflection would probably agree that where a position arises in which a firm whose managing director is Deputy Mayor supplies goods to the City Council, there is a moral obligation upon the managing director to satisfy himself that the goods supplied are in fact of a quality suitable for the purpose for which they are intended to be used. Moreover, it would have been, we suggest, the correct practice and would have obviated much public criticism if Mr. Somen had taken the not unreasonable precaution of ensuring that the necessary covering authority for the replacement order was obtained from the appropriate Committee, where also he would have had an opportunity of declaring his interest.

40. A point was made by Mr. Somen's advocate in his final address that no complaint was in fact made to the firm or to Mr. Somen in person about the quality of the doors. Be that as it may, the fact remains that according to the evidence complaints were made on more than one occasion to Mr. Chanan Singh, the contractor, and in any event, even assuming that there was a duty to complain to the suppliers, Messrs. Hutchings Biemer, the absence of any such complaint does not in our view affect the point which we have been considering which was whether or not the doors supplied were suitable for their purpose.

41. Certain other matters were raised in evidence affecting Mr. Somen. In the first place there is the question of his swimming pool. The matter was fully ventilated before us and we are quite satisfied that Mr. Somen paid a proper economic price for his pool (C.28 25-1-56). The only criticism which we have to offer is the general one, to which we will be adverting in fuller detail at a later stage in this report, as to the impropriety of any Councillor, and perhaps especially a Mayor or a Deputy Mayor, employing the professional staff of the Council on his private projects. This criticism of course in our opinion carries increased weight from the circumstance that, as Mr. Bridger himself pointed out, one of the basic causes for the various irregularities in the management of the Council's affairs, as disclosed in evidence before us, was that the professional staff was gravely over-committed.

42. With regard to the construction of an anti-malarial drain on his property and the substitution of a 2½-inch main for a 1-inch main on his property, we are of the opinion that no reasonable criticism can properly be directed against Mr. Somen himself.

THE LATE MR. HAROLD WHIPP

43. We must now consider the activities of the late Mr. Harold Whipp, who, according to the Coroner's verdict, met his death by his own hand on the railway line near Nairobi on 13th February, having previously been arrested and released on bail on 30th January in connexion with charges arising from matters germane to this Inquiry. It is naturally most distasteful for us to have to investigate allegations against a man who is now dead and whose death took place in tragic circumstances. It is however abundantly clear that the requirements of public interest must prevail over sentiment and we regard it as an essential part of our duty to consider and report upon Mr. Whipp's activities during his employment as Water Engineer to the Council—activities which, in the light of the evidence adduced before us, would seem, apart from their criminality, to have resulted in a serious financial loss to the ratepayers over a considerable period of time.

44. Mr. Whipp, who had previously served in a professional capacity for a number of years in India, was appointed Water Engineer to the City Council in July, 1949. The post was, we are told (A.24 9-3-56), advertised in the usual way and applications were invited both from candidates in Kenya and from overseas. In the event there were only three applications, two of which were from candidates who were interviewed on behalf of the Council in England. Mr. Bridger (B.2 9-3-56)—and we have no reason to doubt it—told us that the qualifications of these two candidates were below what was expected, and Mr. Whipp who was the only remaining candidate and whose qualifications were exceptionally high was appointed to the post (B.22 15-3-56). In the light of what was known at the time we have no criticism to make either of the fact of Mr. Whipp's appointment or the method in which it was made. In fact Mr. Whipp's unusually high qualifications must at that date have been a ground of satisfaction to the Council and not of suspicion.

45. The principal allegations against the late Mr. Whipp are that on a number of occasions and over a considerable period of time he was responsible for the systematic over-measurement of rock excavation in various trenching schemes whereby the Council became involved in severe financial loss. The main evidence on this matter was given by Mr. Keogh (A.8 to A.33 28-2-56), who was at the relevant time Mr. Whipp's assistant, his official title being Mains Inspector. We would add that Mr. Keogh originally gave evidence before us on the 18th and 26th January, when his evidence upon these matters of the measurement of rock in the trenches was indeterminate. Thereafter, on the day after Mr. Whipp's arrest on 30th January (A. (1) 6 28-2-56), Mr. Keogh made a detailed statement to an officer of the Criminal Investigation Department, the substance of which was repeated to us by Mr. Keogh in his later evidence on 28th February, 1956. Mr. Keogh's evidence on this question of the measurement of rock is so important that we feel we must refer to it in some detail (A.6 *et seq.* 28-2-56). Mr. Keogh told us that part of his functions at the relevant time, i.e. from 1949 onwards, was to measure rock excavation necessitated by the various trenching schemes, all of which at the relevant times were being carried out by the firm of Messrs. Ismail & Company. He tells us that it was Mr. Whipp who instructed him to do these measurements. In the middle of 1950 Mr. Whipp had a discussion with the witness about the trenching on the Ngong Road, when he said that he (Keogh) "could be lenient on the contractor and give him some rock there". When Mr. Keogh pointed out that there was no rock there worth talking about, Mr. Whipp replied: "We can

give him a bit, he can probably help us out in many ways". When asked what reply he made to that observation, Mr. Keogh told us "I just turned round and said, 'You see what is here, so you are the boss', so I wrote down the figures for the Ngong Road, Sir" (A.8 28-2-56). The appropriate measurement certificate (Exhibit 329) was produced before us which purported to show that excavation of rock took place at an average of 6 inches all the way along amounting to a total of 1,960 cubic feet. According to this document therefore the contractor, Messrs. Ismail & Company, would be entitled to an "extra over" payment of Sh. 1 per cubic foot which amounted to £98. The witness added that there was in fact no hard rock there. In reply to a question,

"Q. There was in fact no hard rock there?"
the witness replied,

"A. No, Sir, not hard rock.

Q. Who told you to put that 6 inches of hard rock in?

A. Mr. Whipp told me to put it down, Sir" (A.9 and A.10 28-2-56).

46. In July, 1950, that is approximately one month after the measurement of the Ngong Road rock excavation, Mr. Keogh went on leave to Mombasa. Prior to his departure, he tells us he received a present of Sh. 500 from a representative of Messrs. Ismail & Company, with instructions to go on leave and enjoy himself, and that the money was "Just a present for you" (A.11 28-2-56). According to Mr. Keogh, he received two other presents of Sh. 500 on each occasion from Messrs. Ismail & Company, one of them later in 1950 and the second in 1951. The relevant part of the evidence is as follows:—

"Q. How many presents did you receive from this contractor altogether?

A. Three, Sir.

Q. What amounts?

A. Three of Sh. 500, Sir.

Q. Did you ever tell Mr. Whipp about these?

A. The second one I got I did, Sir.

Q. What did he say?

A. He told me to put it in my pocket and keep it and spend it.

Q. Were they all during the same year?

A. There were two in 1950, Sir, and the other was in 1951" (A.11 and A.12 28-2-56).

47. Upon Mr. Keogh's return from his leave at Mombasa, he continued to make measurements of rock excavation. The evidence is:

"Q. Did you do any measurements?

A. Yes, I carried on measuring, Sir. Mr. Whipp was usually with me, Sir.

Q. Did you again show rock where there was no rock?

A. Well, yes, in certain places, yes, Sir.

Q. Did Mr. Whipp know anything about this?

A. Yes, it was quite to his knowledge, Sir" (A.12 and A.13 28-2-56).

Mr. Keogh then gave us details of the following occasions on which he certified that hard rock had been excavated when in fact there was either none at all or only a negligible quantity.

Hill Tank 800 cubic feet hard rock £40 (A.13 28-2-56).

We would interpolate that this is one of the places which we visited. It was in fact an open drain and there was no hard rock, a position with which the witness, Mr. Keogh, agreed. According to Mr. Keogh, he had a conversation with Mr. Whipp about this measurement (A.14 28-2-56).

Q. What took place, please Mr. Keogh?

A. When we measured it, he measured it actually and I was standing beside the trench and I was writing down the figures and I said, 'There is no rock here, Mr. Whipp.' He said, 'You would not like to dig it out for earth, would you?' I said, 'No, but I am not talking from that point of view. I am saying there is no hard rock.' He said, 'You write it down and do what you are told.'

The witness stated that on the majority of occasions when these rock excavation measurements were made, Mr. Whipp was actually present with him, and on all occasions Mr. Whipp was aware of what he was doing (A.15 28-2-56).

Kirichwa Road	3,200 cu. ft.	..	£160	..	(A.16 28-2-56)
Nairobi South Estate ..	3,960 cu. ft.	..	£198	..	(A.17 28-2-56)
Norman Road	1,450 cu. ft.	..	£72 10s.	..	(A.18 28-2-56)
Fairview Estate	3,800 cu. ft.	..	£190	..	(A.19 28-2-56)
Garafani III	3,500 cu. ft.	..	£175	..	(A.19 28-2-56)
Owen Road	1,000 cu. ft.	..	£50	..	(A.21 28-2-56)
Riverside Drive (Second Site)	1,200 cu. ft.	..	£60	..	(A.21 28-2-56)
Jeevanjee Street	1,100 cu. ft.	..	£55	..	(A.22 28-2-56)
Eastleigh, Section III	1,000 cu. ft.	..	£50	..	(A.22 28-2-56)

With regard to that matter, the following is the relevant evidence (A.22 28-2-56):

Q. That was heavily overmeasured, was it?

A. Yes, there was not a foot of rock there.

Q. Who did the measuring in that one?

A. Mr. Whipp did the measuring and I wrote the figures down. Ismail & Co., are the contractors."

Preston Road	2,400 cu. ft.	..	£120	..	(A.23 28-2-56)
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The relevant evidence is:

Q. Was there any rock?

A. Very little, Sir, very little indeed" (A 23 28-2-56).

Pumwani Road	1,000 cu. ft.	..	£50	..	(A.23 28-2-56)
Commercial Street	1,000 cu. ft.	..	£50	..	(A.24 28-2-56)
Nairobi South (Second Site)	2,000 cu. ft.	..	£100	..	(A.24 28-2-56)
Fairview Estate	2,500 cu. ft.	..	£125	..	(A.24 28-2-56)
Lenana Road	3,000 cu. ft.	..	£150	..	(A.24 28-2-56)

These items add up to a total of £1,645 10s. We would point out that we are at this stage only dealing with over-measurements in which Mr. Whipp and Mr. Keogh were jointly concerned, there being other cases of over-measurement in which Mr. Whipp himself was solely responsible (A (1) 1 28-2-56)

48. Mr. Keogh told us that in the course of 1952 he decided to have nothing more to do with this systematic over-measurement of rock and he informed Mr. Whipp accordingly. And after the middle of 1952 there were no more measurement certificates in his handwriting or signed by him. Mr. Whipp took up a threatening attitude, based no doubt upon the fact that the measurement certificates were all in Mr. Keogh's handwriting and signed by him (A.27 to 29 28-2-56). The relevant evidence is:

Q You went on leave, I think you have already told us, in October, 1952?

A. Yes, Sir.

Q. You were getting married at that stage?

A. I got married before that, Sir.

Q. I think you had started a family?

A. Yes, Sir, at the end of 1951.

Q. By that stage, what were your feelings about this business of over-measuring?

A. Well, I got a bit worried about it, Sir, and I would not have anything more to do with it from about June, I think it was, 1952, Sir, May or June, 1952. I told Mr. Whipp I was not going to do any more measurements and he told me, 'All right, I will do the measuring, but you keep your mouth shut about what has happened in the past, otherwise I have got more influence than you have and I will fix you', he said, like that.

Q. And of course all the measurements were in your handwriting?

A. Before that, Sir, yes.

Q. And of course, as we have seen, Mr. Whipp had them?

A. Yes, Sir.

SIR ALAN ROSE: Had the certificates?

MR. BROOKES: Had the measurements, yes. Did Mr. Whipp say that to you on only one occasion or on more than one occasion?

A. He said it to me actually a couple of times. He said it to me before the Supreme Court case.

Q. What did he say to you before the Supreme Court case?

A. He said: 'Don't be too hard on me in there, otherwise I have got something on you in the past.' But fortunately, in the Supreme Court case, I had nothing whatever to do with it, Sir, because I was on leave when these jobs were done.

Q. You came back about April, 1953?

A. Yes, Sir.

Q. Who did the measurements from then onwards?

A. Mr. Whipp did the measurements.

Q. In his own notebooks?

A. In his own notebook. He went on the job and he measured it.

Q. I take it you did keep your mouth shut?

A. I did, yes, Sir."

The reference to the Supreme Court case is to a prosecution against Mr. Whipp with regard to certain alleged over-measurements of rock in which Mr. Whipp himself was solely concerned. In the event, in August of 1955, Mr. Whipp was acquitted of these charges.

49. There are two other matters to which we would refer in this context. First, Mr. Keogh's statement to the Criminal Investigation Department was made on 31st January, 1956, that is to say 13 days before Mr. Whipp's death. The relevant evidence is:—

"MR. KEOGH: Excuse me, Sir, but I would like it to be made clear that I made this statement before Mr. Whipp's death and that I am not trying to put anything on to a dead man now, Sir. I made the statement and I was prepared to back it in court for a court case.

SIR ALAN ROSE: And the story you told us to-day is substantially what you told Mr. Littleton on 31st January?

A. Yes, Sir, and it was made before Mr. Whipp's death.

SIR ALAN ROSE: Yes, I think you are entitled to say that." (A(1).5 28-2-56.)

Secondly, there is the circumstance that when Mr. Whipp was arrested on 30th January there were found in his possession all the measurement certificates in Mr. Keogh's handwriting to which we have referred in paragraph 48 above, together with a number of other documents extracted from official files of the City Council. With regard to these measurement certificates, when Mr. Whipp gave evidence before us he said, in answer to a question as to where the measurements certificates in Mr. Keogh's handwriting were, that he had been unable to find them. The relevant evidence is:—

"Q. You told us yesterday that chits from Mr. Keogh on the Ngong Road project had been sent to you with regard to calculations which he did. Do you remember stating that?

A. I said his measurement chits were sent to me.

Q. And that we should find them in the files if we looked. Are you surprised to hear that no chits from Mr. Keogh are on the Water Department's file with regard to the measurements—they are not available in any shape or form? Can you explain that? (C.9 and 10 20-1-56.)

A. I don't know. I said I left them there when I left; they were there when I left."

While it is true that there was no evidence before us as to what, if any, was his share of the profits resulting from these frauds, we would point out, as we have already stated earlier, that Mr. Whipp was re-arrested on 30th January and that thereafter we thought it fairer in his own interests that no further evidence should be adduced on matters which might be germane to this prosecution. And in any event it seems to us that there is an irresistible inference that Mr. Whipp must have had substantial reason for entering upon his course of deception (A.1 30-1-56). The following reference is relevant (C.21 and 22 27-2-56). (Mr. Littleton is an Assistant Superintendent of Police attached to the Criminal Investigation Department Headquarters in Nairobi.)

"MR. BROOKES: Mr. Chairman, Sir, before I examine this witness, I perhaps should tell the Commission that this evidence relates to the late Mr. Whipp. I deeply regret having to call this evidence against a man who is now dead. It would of course have been called at the criminal trial, but now there will be no criminal trial and it is, I am afraid, in the public interest, since it may affect other persons for this evidence to be given.

SIR ALAN ROSE: Yes.

MR. BROOKES: You knew the late Mr. Whipp, did you not, Mr. Littleton?

A. I did.

Q. You arrested him when he finished giving evidence before this Commission, did you not?

A. Yes, on 30th January this year.

Q. Did you take him to a room in the Law Courts after his arrest?

A. No, I took him to C.I.D. Headquarters.

Q. Did you search him there?

A. I did.

Q. Did you find certain documents in his possession? (Exhibits 328 to 353.)

A. I did.

Q. In particular you found a file?

A. Yes, this file.

Q. That was in Mr. Whipp's possession, was it?

A. It was in his brief case which he was carrying.

Q. Does that contain a number of documents relating to the City Council?

A. Yes, Sir, there are 51 in all."

The documents in question, as we have already stated, consisted *inter alia* of the measurement certificates in Mr. Keogh's handwriting and bearing his signature. In the light of Mr. Keogh's evidence, given on 28th February, which we accept, that one of the reasons for his keeping his own counsel after his having ceased his co-operation with Mr. Whipp in the over-measurement of rock excavation, was that he felt he was in a vulnerable position *vis-à-vis* Mr. Whipp, in that Mr. Whipp was aware that a number of measurement certificates were in his handwriting and bore his signature, we are reluctantly bound to state that we can see no other explanation but a sinister one for Mr. Whipp having these documents in his possession.

50. In addition, there were substantial over-measurements for rock excavation in which Mr. Whipp alone was involved, in respect of the Mtoni water main, water mains which pass under the title of L.R. 37 and the Ngong water main. The three involved a total over-payment of £2,180. The total over-payment to the contractors, Messrs. Ismail & Company, for the excavation of hard rock which did not in fact exist, and for which Mr. Whipp, either solely or jointly with Mr. Keogh, was responsible, amounted to no lesser sum than £3,825.10.0.

As to the whole episode of these over-measurements in respect of excavation of rock, we would add that even apart from Mr. Keogh's evidence that the over-measurements were deliberate and done with the full cognizance and, for the most part, in the actual presence of Mr. Whipp, evidence which we have no hesitation in accepting, no question of mistake can possibly arise. We have been considering a matter of no less than 20 cases of certifying rock where no rock, or no considerable rock, existed. These facts themselves, to our mind, are open only to the construction that there was a deliberate course of deceit.

51. We now have to deal in more detail with the question of the Mtoni water main (D.14 25-1-56), which was laid at the end of 1954 and perhaps also in the beginning of 1955. On 5th February, 1955, Mr. Whipp in his own handwriting made out, signed and presented a measurement certificate (Exhibit 180) in favour of Messrs. Ismail & Company. The measurement for excavation of hard rock is given as 8,750 cubic feet, the price for which is stated as being Sh. 3 per cubic foot, that is to say Sh. 26,250 (£1,312.10.0) (D.16 25-1-56).

52. When checking this certificate, Mr. Gorton, the Internal Auditor, found that the amount of rock certified (B.19 26-1-56) as excavated exceeded the total amount of rock allowed for in the bill of quantities for the whole year, and his suspicions were aroused. Eleven trial holes were dug and as only in one was any rock found, Mr. Gorton on 17th February, 1955 (B.24 26-1-56), reported the matter fully to the City Treasurer. On 2nd March, 1955, Mr. Whipp wrote a long letter of explanation and apology to the head of his department, the City Engineer, enclosing a revised measurement certificate in which the allowance for hard rock was nil (C.5 *et seq.* 26-1-56).

The whole trench was opened up on 22nd January, 1956, when it was discovered that there was only a negligible amount of rock in the area (A.1 26-1-56) and that on a generous interpretation 78 cubic feet of hard rock was the most that could be conceded as possibly having been excavated.

53. With regard to this matter, Mr. Bridger wrote a letter to the City Treasurer dated 3rd March, 1955 (Exhibit 199), in which, after setting out his version of the facts, he says:

"The conduct of the officer concerned (i.e. Mr. Whipp) is open to very severe criticism but insufficient to justify criminal proceedings.

He should, therefore, be severely reprimanded and a letter recording this action and the reason for it sent to him with a copy for permanent record." The question of disciplinary action against Mr. Whipp arose, and in the event Mr. Whipp was permitted to submit his resignation on 29th April. It will be necessary for us to refer in more detail to Mr. Whipp's resignation at a later stage.

54. We would mention that on 28th January, 1956, we visited the Mtoni main amongst other sites and, from our inspection and what was pointed out to us, we have no hesitation in accepting the evidence that no considerable amount of hard rock could possibly have been excavated from that trench.

55. While we are prepared to accept that Mr. Bridger at this stage had no knowledge of Mr. Whipp's systematic over-measurement of rock on other sites, we feel it is our duty to comment that Mr. Bridger's attitude seems to have been unuly indulgent having regard to the seriousness of the error in the measurement and to the fact that Mr. Bridger was already apprised of a matter concerning Mr. Whipp's water meter, to which we shall be referring in paragraph 69 below. It is in this connection that we feel we should refer to the matter of a loan of £2,500 which Mr. Bridger raised from Mr. Whipp some time previously. We do not suggest that the loan was anything but genuine, and Mr. Bridger produced before us extracts from his bank statement which demonstrated that interest at 5 per cent was regularly paid. But the mere fact of Mr. Bridger finding himself in the unhappy position of having to report upon a very grave irregularity on Mr. Whipp's part illustrates the danger of an official borrowing a substantial sum from a junior officer in his department. It is unnecessary to stress the embarrassment that must be felt by a head of department when he is confronted with a decision as to whether or not disciplinary action should be taken against an inferior to whom he is substantially indebted.

56. It now becomes necessary to consider a water main which passes under the title of L.R.37. This main was laid, according to Mr. Saunders (D.1 25-1-56), between June and September, 1953. Mr. Harold Whipp was the water engineer and the contractors once again were Messrs. Ismail & Company (Exhibit 176). The total length of the trench was 8,037 feet which includes a length of 212 feet which was by an oversight not examined until a later date and in which the volume of rock was nil (A.2 26-1-56). In respect to this trench, the first payment certificate

(Exhibit 177) was dated 12th July, 1953, which was in favour of Messrs. Ismail & Company, in Mr. Whipp's handwriting and bearing his signature. There appears the entry (D.5 25-1-56):

"9,750 cubic feet, extra over for excavation in rock at Sh. 1, total Sh. 9,750 (£487 10s.)."

There was also a payment certificate dated 6th July in favour of Messrs. Ismail & Company in Mr. Whipp's handwriting (Exhibit 178) and bearing his signature, in which is the following reference (D.6 25-1-56):

"5,800 cubic feet, extra over for excavation in rock at Sh. 1, Sh. 5,800 (£290)."

There is also a payment certificate dated 8th August, 1953 (Exhibit 179), in favour of Messrs. Ismail & Company in Mr. Whipp's handwriting and bearing his signature, in which the following extract appears (D.8 25-1-56):

"840 cubic feet extra over for excavation in rock at Sh. 1, Sh. 840 (£42)."

These three certificates indicate that the total amount paid "extra over" for excavation in rock was Sh. 16,390 (£819 10s.) whereas according to the evidence of Mr. Saunders, who carried out the necessary check, the total volume of rock in the whole of the trench amounted to 86 cubic feet which at Sh. 1 involves a total cost of Sh. 86 (£4 6s.).

57. Apart from the question of hard rock it was pointed out to us on our inspection of the site on 28th January, 1956, that the pipes themselves were unevenly laid and the trench was shallow (A.4 30-1-56), as indeed was the case also with the Mtoni water main. Moreover there were a number of sharp kinks in the joints at various places which would be likely to cause trouble in the course of time. Some shale and murrum was shown to us in the trenches and it was demonstrated that this could easily be dislodged with a pick. There was no sign of a seam of hard rock of approximately 1 foot average depth throughout the length of the trenches, such as would be necessary to substantiate the certification for 16,390 cubic feet of hard rock in this particular project.

Further, 8,986 feet of piping were issued from store for this project, out of which 949 feet appear to have been unaccounted for (D.11 and 12 25-1-56).

NGONG WATER MAIN

58. We now have to consider a 3-inch water main along the Ngong Road. The total length which the drain should have occupied is 4,794 feet 6 inches (D.3 17-1-56). It is divided into two sections, the first of 4,118 feet 6 inches which runs from the Golf Course entrance to Whistley Road. (This section was measured on 22nd December, 1955.) And the second section, 676 feet, which runs from the Golf Course towards Nairobi to a house named "Honore". (This was measured on 23rd December, 1955.) (D.4 17-1-56). Mr. Saunders told us that there were a number of places in which the pipes were not joined up, there being simply a series of pipes laid in the ground with spaces in between. This was intended to be a water main, presumably to supply water to houses along the Ngong Road. It is obvious of course that in view of these gaps in the drain, the main performs no useful function whatever. We visited the Ngong Road main on Saturday, 21st January, and a plan (Exhibit 146) showing in detail the trenches and pipes was prepared in consequence of our visit. At the meeting on 23rd January, 1956, Mr. Saunders described what we had seen on the Saturday (A.3 to 5 23-1-56). In connection with this point, we would refer to the fact that Mr. Whipp in evidence before us stated that the reasons for the gaps were that they coincided with private drives into houses and it was proposed, no doubt, that they would be joined up at some subsequent stage. We would comment with regard to that that not only does this not seem to be factually correct, but that in any event it could

afford no possible excuse as the invariable practice, where it is necessary to carry a drain across a private drive, is for the work to be done in a matter of half a day or so by arrangement with the householder.

Apart from this question of the gaps between the sections of the pipes, it was noticeable that the pipeline as a whole was uneven and crooked, due to the fact that there was an excessive departure at the joints both horizontally and vertically from the general alignment (A.5 23-1-56). While we do not think it necessary to give in detail the extent of the various gaps between the sections of the pipes—which are set out in the plan (Exhibit 146) to which we have referred—we would just observe that there were seven intervals or gaps between the sections of the pipe, one of which was almost 200 yards in extent and could not be explained by any supposed coincidence with any private drives into houses. Moreover two sections of the trench had been dug and filled in without any pipe at all having been laid therein.

59. This main was apparently laid in 1950 (D.19 17-1-56), and it was only in December, 1955, that it was discovered lying underground in this condition. The firm that laid the pipe was again Messrs. Ismail & Company, and of course Mr. Whipp was the Water Engineer at the time.

60. Moreover here too there was a matter of over-measurement of rock (Exhibit 127). The appropriate measurement certificate purports to show that 980 cubic feet of hard rock was excavated "extra over" at Sh. 1 a foot, amounting in all to a payment of Sh. 980 (£49). Mr. Saunders told us that none of the material in the sides of the trench which had been assessed as rock could properly be classed as hard rock within the terms of the specification for the pipe trenching contract 1950. In other words, none of it required the use of a compressor or wedges to break it (A.5 23-1-56; B.1 18-1-56).

We would add that Mr. Saunders was accompanied by Mr. Roberts, Chief Assistant Engineer in charge of Roads and Sewers, on all the occasions when the measurements were taken to which he testified. The first section was dealt with on 22nd and the second section on the 23rd December, 1955.

61. Moreover, it appears that 3,430 ft. of pipe was issued according to the stores issue voucher (B.9 18-1-56). Two thousand eight hundred and forty feet of pipe were found in the trench, leaving a deficiency of 590 ft. Mr. Saunders told us that according to his recollection, the value of pipe at that date was about Sh. 3/50 a foot, so that the cost of 590 ft. would have exceeded £100.

62. A total of 32 measurements of depth at various points along the line of the trench were taken, and an average depth of 2 ft. 7 in. was disclosed from these measurements (B.4 18-1-56). The computations are given in detail in the evidence, but we do not feel it necessary to set them out. The average width of the trench was also estimated (B.5 18-1-56). Mr. Saunders pointed out that this was measured over a more restricted length of the trench for the reason that much of the trench was in black cotton soil, some of which had fallen in, so that it might perhaps have given an inaccurate figure if, after the considerable rain that had fallen, that portion had been measured. The section actually measured therefore was between the golf course club entrance and Kibera Road. Five measurements were taken which disclosed an average depth of 1 ft. 5 in. We would point out that according to the contract the depth of the trench should have been 3 ft. 6 in. and the width 2 ft. We agree with Mr. Saunders that any competent water engineer who inspected this trench could not have failed to observe this substantial deficiency in width and depth (C.4 18-1-56).

63. With regard to this Ngong main project in general (C.6 18-1-56), we would refer to the following:—

"Q. Do you consider that the Council has gained anything from this project on the Ngong Road?

A. (Mr. Saunders): No, Sir, not a thing.

Q. Nothing whatsoever?

A. Nothing.

Q. And how much in your estimation has the Council lost in public money in certifying payment for this project?

A. In round figures, Sir, I would say that something of the order of £1,000 has been spent on this work to no productive purpose and you have had capital, in fact, to that value buried useless in the ground for five years."

64. There are still three further criticisms which must be made. First, this substantial project never received the covering authority of the appropriate or any Committee of the Council. Mr. Whipp endeavoured to excuse the initiation of this project on the ground that he had formed the opinion that the Ngong Road area was likely in the future to be developed and that he had received by word of mouth (C.7 and 8 20-1-56) complaints from residents in that area concerning the unsatisfactory nature of the water supply. We would stress in passing that the records disclose no written complaints on this matter and Mr. Whipp did not suggest that there were any. Apart from this, it is of course obvious that a question of policy of this nature should have been referred to the Water and Fire Committee. The relevant evidence is as follows (C.17 and 18 18-1-56):

"Q. Is this new scheme necessary at all?

A. (Mr. Saunders): I don't know of any complaints, Sir. Of course the number of houses served by the existing scheme is very small actually, just a few houses on the south side of Ngong Road there, and the existing scheme appears to serve them satisfactorily.

Q. And that is even to-day? I mean in 1956?

A. As far as I know that is so to-day.

Q. Therefore, perhaps it is safe to say that in 1950, five and a half years ago, the putting of this alternative scheme was not necessary, to put it mildly.

A. I would certainly say if the existing scheme is satisfactory to-day there is little doubt that it would have been satisfactory in 1950.

Q. If anything, there would have been less houses, certainly not more?

A. The only possible reason for putting this main in in 1950 might have been that it was envisaged that at that time there was going to be a very rapid development on the south side of Ngong Road.

Q. But of course a decision of that kind would eminently be one of policy for the Water Committee?

A. Absolutely, yes, Sir."

65. Secondly, no plan was ever made in respect of this project (D.12 19-1-56). Mr. Whipp admitted that this was so, but gave the excuse that he regarded this work as a replacement only. We do not regard this excuse as valid. Furthermore—and this is our third point of criticism—Mr. Whipp found it convenient to charge this scheme to his Maintenance Vote. The effect of this, of course, would have been to conceal the absence of covering authority. It seems to us that it was quite improper practice to allocate this substantial development project to the Maintenance Vote.

Once again, as we have already stated, the contractors were Messrs. Ismail and Company, and it is difficult to resist the conclusion that here is yet another instance in which Mr. Whipp sought to benefit these contractors.

66. A Mr. Mohamed Sharif, a member of the firm of Messrs. Ismail and Company, gave evidence before us (A.7 30-1-56). His position was that he was quite unaware that his firm had been paid a large sum of money in respect of "extra over" excavation of hard rock. He stated that he only became aware of this suggestion when criminal proceedings were instituted in 1955, adding that he would not even have known about it if the City Council had underpaid rather than overpaid his firm (B.3 30-1-56). He told us that his firm had three compressors at the relevant time, but that no record was kept as to where or when they were working (B.4 30-1-56). We do not consider it necessary to comment upon Mr. Sharif's evidence because we have had no direct evidence before us as to the method of distribution of the profits of the firm of Messrs. Ismail and Company which resulted from persistent falsification of measurements certificates by Mr. Whipp.

67. The contract between Messrs. Ismail & Company and the Council by which Messrs. Ismail & Company were entrusted with the digging of all trenches on behalf of the Council was originally a twelve-month contract and was entered into in 1950. Subsequently, it was extended from year to year by the City Engineer, Mr. Bridger, on the advice, we understand, of Mr. Whipp. Moreover, the nature of the contract itself was radically changed in that it was extended to include back-filling and pipe-laying. Further, Mr. Saunders stated that he had worked out the figures relating to this contract and its extensions from 1951 to 1954 (C.5 and 6 28-2-56). He gave us the figures in detail and told us that the inclusion over that period of items of back-filling and pipe-laying amounted to a variation of 31 per cent, and these substantial extensions never received the covering authority of the appropriate committee (C.7 28-2-56). Mr. Saunders' evidence was as follows (C.9 28-2-56):—

Q. Would you agree that it is an improper practice for the City Engineer to extend these contracts year after year for a period, I think, of four years, without going to the Council?

A. I regret to have to admit that it is, yes.

Q. And of course there was more to it, was there not, because what started out as trench digging alone on the annual contract came in the end, well a long way before the end, to be a contract for the whole job?

A. That is correct.

Q. Did this matter ever go to the Council, do you know? I assume it did not.

A. There is no evidence to suggest that it did, no. There is nothing in the minutes.

MR. CUSACK: There is only one point I would like to get clear. That is, when you say it is improper in your opinion for the City Engineer to, say, renew a contract of that nature without going through the recognized channels, why would you say it was improper? It is not purely a technicality, is it?

MR. SAUNDERS: Well, I would say, Sir, that the Council is the body which authorizes the renewal of a contract, and that an officer of the Council should therefore, if he wishes to renew a contract, place a recommendation in front of the appropriate Committee for them to make the decision to renew it. He should not take that decision off his own bat.

Q. I mean, it is very important from the point of view of the people who are tendering, apart from the officer concerned, is it not?

A. Yes, it is indeed.

Q. That they should be assured that these contracts do go through the right channels?

A. Yes, I quite agree The Council has a tender board which awards contracts, and I would have said that the same procedure should be followed in respect of the renewal of a contract as is followed for the award of a contract. In other words, it should go to the Council for decision.

Q. Both in the interest of the Council and the tenderers?

A. Exactly, yes, Sir."

The point which we are making, of course, is that, quite apart from the merits of the contract as such, the proper procedure should have been followed and this is an example of laxity in the handling of the Council's contracts.

68. With regard to certain trenching in St. Austin's Road, in the Bernard estate, there was a suggestion that Mr. Whipp, upon hearing that an investigation was to be made into the trenching, endeavoured to borrow a number of Fire Brigade personnel in order to fill in the trenches so as to make an inspection impossible (A.19 and 20 27-1-56). The evidence on the point was hearsay and the matter was not pursued by Crown Counsel. That being so, we regard the allegation as unproved.

69. A point arose as to a water meter functioning at Mr. Whipp's own house (A.1 to 5 19-1-56). Towards the end of 1952 it was discovered that the consumption of water on Mr. Whipp's plot was remarkably low in comparison with that of similar houses in the neighbourhood, and also with the consumption of the previous owner of the same house. As a result of investigations, Mr. Gorton, the Internal Auditor, made a report (Exhibit 136) to the City Treasurer, in which *inter alia* he stated that Mr. Whipp had a sprinkler working in his garden continuously and that the consumption of water for which Mr. Whipp was charged was "impossibly low". Upon inquiry being made, Mr. Whipp wrote a letter admitting that there was something wrong with his water meter; that he knew the water meter was not working correctly; and that he realized that he had been undercharged for water consumption. He added, "I throw myself upon the mercy of the Council" (A.9 19-1-56). The original of that letter was not produced before us, but Mr. Gorton gave its contents from memory. Mr. Whipp did not dispute that he was at fault in not reporting the matter when he discovered that his meter was registering incorrectly. With his letter of apology he enclosed a cheque for Sh. 500 (£25) in restitution, which was accepted by the Council (D.3 *et seq.* 19-1-56).

There was also a suggestion that Mr. Whipp deliberately manipulated his meter so as to cause it to under-register. Mr. Whipp denied this and we do not regard the allegation as proved. But even on the less serious assumption that Mr. Whipp merely knew that his meter was under-registering and took advantage of the fact over a period of time, we regard this action as most improper having regard particularly to the fact that he was the Council's Water Engineer.

70. There was considerable discussion before us as to the circumstances in which Mr. Whipp tendered his resignation from the Council. Mr. Saunders had evidently formed the view that Mr. Alexander and Mr. Somen, who were at the relevant times Mayor and Deputy Mayor respectively, were endeavouring improperly to protect Mr. Whipp (A.3 to 7 27-1-56). It has to be borne in mind, however, that it was not until many months later that the true facts about Mr.

Whipp's activities could have become known to either of these gentlemen, or indeed to any other Councillor. Mr. Bridger, who was Mr. Whipp's head of department at the relevant time, took the view that no criminality was involved but merely gross negligence, and he apparently did not think it necessary to suspend Mr. Whipp pending an investigation under regulation 26 of the Code of Working Regulations (Exhibit 206). Mr. Alexander and Mr. Somen and the other Councillors were in our view, entitled to have regard to that.

71. Mr. Whipp's matter was discussed at the meeting of the European members of Council on the 28th March, 1955 (A.5 27-1-56). At this meeting Mr. Bridger and Mr. Kent, the City Treasurer, were present and expressed their views. It appears that a vote was taken amongst the Councillors and by a majority of one a decision was reached that Mr. Whipp should be dismissed (C.2 26-3-56). It is significant that Mr. Alexander was one of those who voted for dismissal. To demonstrate how little the Councillors were apprised of the true situation, we have the evidence of Mrs. Raynor (C.10 10-2-56) that she voted against Mr. Whipp's dismissal for the reason that she was unfamiliar with the details of the matter and, not unnaturally, attached importance to the view of Mr. Whipp's head of department, Mr. Bridger, who stated that, in his opinion, no criminality was involved.

Mr. Kent on the other hand expressed the view that, in the interests of the morale of the Council employees as a whole, Mr. Whipp should be dismissed (A.12 9-2-56).

72. On 29th April, 1955, a special meeting of the Finance Committee took place to consider the allegations against Mr. Whipp in connexion with Messrs. Ismail and Company's pipe-laying contract. That morning Mr. Whipp had handed in a letter of resignation (A.9 8-2-56) which was accepted by the Committee. There was no direct evidence before us as to the precise circumstances attending this matter. If however—as may well have been the case—the Councillors or a group amongst them thought that Mr. Whipp's resignation would be a convenient and practical manner of resolving the difficulty, we see no reason to criticise that view as being improper or even unreasonable, bearing in mind the fact of the Councillors' incomplete information to which we have already referred. Mr. Alexander referred in his evidence to a conversation that he had had with the Attorney General on 10th June, 1955 (A.12 (1) 26-3-56) in which the Attorney General himself appeared to consider that there was then insufficient material to justify a prosecution of Mr. Whipp. (Exhibit 442.)

73. This meeting of European Councillors was described as a meeting of "caucus", a word which may perhaps be thought to have a sinister significance. We are satisfied however that this particular meeting was merely what one may call a group meeting of the European Councillors to discuss the attitude that should be taken on a matter of considerable interest to the Council at a subsequent meeting of the Finance Committee which, at that stage, was intended to be called to consider, *inter alia*, Mr. Whipp's matter (C.10 26-3-56). Mr. Alexander told us that while, as a rule, a majority decision of a caucus meeting was followed when a vote was taken in open Council, this need not necessarily be so and that—in some cases—a member had been known to vote in open meeting contrary to the majority decision of the caucus.

We do not feel disposed to criticize the fact that Mr. Whipp's matter should have been considered at a caucus meeting.

74. Having regard to the amount of time that was spent before us on this question of caucus meetings, we feel that perhaps, in all deference, we should indicate our view upon the matter. In any multi-racial tribunal it is probably

inevitable—and in itself not objectionable—that the various racial groups should meet separately from time to time to consider what their attitude should be to certain matters subsequently to be debated in open Council. This practice is probably not uncommon in countries where multi-racial tribunals exist, and only becomes questionable, we would suggest, if in the case of a majority community the device is used to excess and with the effect of nullifying subsequent discussion in open Council.

We would add that unfortunately the indications would seem to suggest that the caucus device is being used to excess in the affairs of the City Council with the effect stated.

RUIRU DAM

75. In 1947 a question arose as to obtaining some cement for the building of the Ruiru Dam, a project which had been under consideration of construction for some years and which was then in danger of being delayed owing to a shortage of cement. Mr. Dobbs Johnson, Deputy Mayor at that time, who at all the relevant times was employed by Messrs. Smith Mackenzie & Co., Ltd., on a commission basis, informed Mr. Bridger, the City Engineer, towards the end of 1947 that his firm was in a position to supply 5,000 tons of cement. During the year 1948 this cement was delivered, apparently in two consignments—the first of 900 tons in April, 1948, and the remainder later in the same year (A.13 26-3-56).

76. It appears that at first there was some misunderstanding as to the type of cement that was available. In the first instance—as Mr. Bridger told us—it was thought that the cement was Portland cement of the normal British standard specification. Upon arrival however it transpired that it was a Belgian blast-furnace cement called Sealithor. Although the technical staff at the dam apparently, at any rate in the early stages, found a certain difficulty in working with the cement, in that its qualities were in some respects different from those of Portland cement, it appeared that, in the event, the cement did not prove unsatisfactory and that—apart from the question of expense to which we shall have to refer later—the Dam according to the information at present available is a satisfactory engineering achievement. We would add that we do not consider that there was any deliberate deception on Mr. Dobbs Johnson's part in representing to Mr. Bridger that the cement available was Portland cement, the position apparently being that neither Mr. Dobbs Johnson nor Mr. Bridger realized the true position at the time that it was decided to purchase the cement for the Council.

77. It is indeed unlikely that there would have been any substantial criticism of this transaction had it not been for two remarkable—and easily avoidable—circumstances. In the first place there was, astonishingly enough, no written order for this substantial quantity of cement, the value of the contract amounting to some £57,000. Here is a glaring example of laxity in the matter of the handling of an important contract. No written order was produced from any quarter before us, and therefore in the absence of the production of any such written order by any of the parties interested we must only assume that there was no such written order. The absence of any such order gave rise to difficulty when the Council later had to consider their legal position in regard to this consignment at a stage when it seemed likely that the Sealithor cement was going to prove unsatisfactory and that it might be to the advantage of the Council if they were advised that the legalities of the situation permitted them to refuse to pay for the cement. In the event Counsel's opinion was taken and the Council were advised, on the factual basis that Mr. Dobbs Johnson had ordered the cement on the Council's behalf, that by implication the contract had been ratified by acceptance.

78. The second circumstance is that Mr. Dobbs Johnson omitted to declare his interest in the contract and to get such declaration officially recorded in the Minutes of the Council. Mr. Dobbs Johnson told us—and we have no reason to doubt—that at the material time the Councillors and the officials of the Council were aware of his connexion with Messrs. Smith, Mackenzie. That however, in our opinion, did not excuse Mr. Dobbs Johnson from taking the wise and necessary step—either before the appropriate Committee or in open Council—of having the fact of his interest in the contract duly recorded. Much unhealthy rumour and criticism would have been avoided had Mr. Dobbs Johnson taken this simple and correct precaution. Incidentally, the same comment applies to Mr. Somen's action in having failed to declare his interest in the supply of 400 doors for the Ofafa contract—a matter with which we have already dealt.

79. We must now consider the contract for the construction of the Ruiru Dam about which a body of evidence was called before us. At the outset we would repeat what we have said in the preceding paragraph, that from the engineering point of view professional opinion, as evidenced before us, is unanimous that the dam is an eminently satisfactory achievement. The question that we have to consider is purely one of expense, the suggestion having been made before us that the Council were over-charged for the construction of this dam.

80. The contractors were Messrs. W. & C. French & Company, the consulting engineers were Messrs. Howard Humphreys & Sons, and the resident engineer on the site was Mr. Edington. There was much discussion before us as to whether Messrs. Howard Humphreys & Sons were "supervisors-in-chief" in respect of this contract. It will suffice to say that we are not satisfied that any appointment of supervisor-in-chief, as such, was made in this matter. In fact, we are inclined to the view that until the point was discussed at length before us no one of the relevant parties—the Town Clerk (who was responsible for drawing the contract), the City Engineer, Mr. Edington, Messrs. W. & C. French or Messrs. Howard Humphreys themselves—ever considered the point as to who was supervisor-in-chief, if indeed any such appointment was envisaged at all. Moreover, Mr. Edington's own position does not appear to have exercised anybody's mind until the matter was discussed before us. Mr. Edington himself said that he regarded himself as having been appointed by Messrs. Howard Humphreys and paid by the Council. We do not consider that it is either necessary or rewarding to pursue this point further. We would just point out that no single document was produced in evidence before us in which there was any reference to the fact that Messrs. Howard Humphreys & Sons were the supervisors-in-chief. In this connexion their advocate put in a letter (C.7 8-3-56) concerning the Sasumua Dam, from which it was quite clear that in that matter Messrs. Howard Humphreys and Sons were the supervisors-in-chief. Moreover, we consider that the acceptance by Messrs. Howard Humphreys & Sons of a consolidated fee of 5¼ per cent on the final cost of the contract for the supervision of these works and the correspondence relating thereto do not enable a conclusive inference to be drawn as to their duties under the contract.

81. The practical question which we have to decide is whether the City Council have paid approximately £40,000 more than they need have done in respect of this contract in that the final figure of settlement was £235,000 as against the ceiling price on the original "target" contract of £195,000. Originally the contract was a target cost contract. The first target cost was £173,469.5.0 and a ceiling was fixed at £195,000. The final settlement was arrived at on the basis that the contract had become one of prime cost, plus 10 per cent. Upon this matter it was contended before us on behalf of Messrs. Howard Humphreys & Sons that

the basis of the contract had in effect been changed by an amendment to clause 24 of the Conditions of the Contract. The original clause 24 reads as follows (Exhibit 207):—

“Methods of Payment

Payments on account will be made monthly on the Engineer's Certificate not later than three weeks after the issue of the Certificate and at the rate of 90 per cent of the value of the work certified as completed during the preceding month the value to be based on measurement of the amounts of work done at the prices given by the Engineer in the Bill of Quantities increased or decreased by the percentages as stated by the Contractor in his Tender plus the Fixed Percentage Fees on the cost of work so computed.

The words 'Final Monthly Certificate' shall mean the last payment made as a monthly measurement.

After the issue of the Final Monthly Certificate and during the following six months assessments of the Final Target Cost the Prime Cost and the Contractor's Fee including any Bonus or Absorption of Fee shall be made in accordance with these Conditions of Contract and the First and Second Schedules hereto attached.

The balance of payment then due to the Contractor shall be the difference between the total payments made up to and including the payment made on the Final Monthly Certificate and the assessed Prime Cost plus the Contractor's Fee duly adjusted by any Bonus or Absorption of Fee. This balance shall be paid to the Contractor in two equal instalments at the end of six months and twelve months respectively from the certified completion of the Contract which payments shall be known as the 'First Instalment of Retention Money' and 'Final Instalment of Retention Money' respectively.

No advances will be made in respect of 'Materials on Site' which have not been embodied in completed work or for temporary works.

In the case of Sums Miscellaneous Amounts and Provisional Sums payments will be made monthly on the same basis and the amount to be included in each certificate shall be as the Engineer shall decide. Should the Engineer consider that the obligations of the Contractor have wholly or in part not been carried out in respect of any item against which the Engineer shall have placed a figure in the Bill the Engineer shall make such deduction as he may consider proper.

All interim payments shall be regarded as advances and if it appears to the Engineer at any time that payments made on the basis of measurement of the work completed are in excess of the payments to which the Contractor is entitled on the basis of Prime Cost plus fee the amount of the overpayment shall be recoverable from the Contractor.

No certificate of payment shall protect the Contractor in case of overpayment or in case it should subsequently appear that the Works have in any respect not been executed in accordance with the Contract.

No fresh items of Prime Cost shall be admitted after six months have elapsed from the date of issue of the Certificate of Completion of the Works by the Engineer except for normal repairs and maintenance for which a variation order has been issued by the Engineer."

The amendment, which appears to be undated but which was attached to the form of contract, reads as follows (Exhibit 207):—

“Methods of Payment

Payments on account will be made monthly on the Engineer's Certificate and shall be based upon the actual prime cost of works during the preceding

month in accordance with Wage Sheets, Invoices for material, plant hire, etc., and all other documentary evidence supporting allowable charges to 'Prime Cost' as detailed in the Second Schedule hereto and as audited by the Municipal Treasurer and approved by the Municipal Engineer, less 10 per cent retention, plus a proportion of the Contractor's Fee *pro rata* to the value of the work done. The balance of 10 per cent will be paid in two equal instalments at the end of six and twelve months respectively from the certified completion of the Contract but no certificate or payment shall protect the Contractor in case of over-payment or in case it should subsequently appear that the Works have in any respect not been executed in accordance with the Contract.

For and on behalf of

W. C. FRENCH LTD."

We are of the opinion that the amendment of this clause amounts to no more than a change in the method of making interim monthly payments and does not change the nature of the contract. Indeed it appears from the correspondence that Messrs. Howard Humphreys, the consulting engineers, were not informed of this change at all and only discovered it by chance in February, 1950 (B.8 6-3-56). Mr. Dixon, a partner in Messrs. Howard Humphreys & Sons, stated specifically that this was the position, and if that is correct—and we are prepared to accept that it was—there would seem to be an inference that the matter was not regarded as of sufficient importance to necessitate informing the consulting engineers. This circumstance, apart from the wording of the amending clause itself, tends to confirm our view that the nature of the contract was not changed by this amendment.

82. On 8th December, 1949, there was a meeting in Nairobi between Mr. Bridger, Mr. Edington, Mr. Forward—representing Messrs. Howard Humphreys & Sons,—Mr. Abbot—who was the agent and representative in Nairobi of Messrs. W. & C. French & Company—and Brigadier French, a director of that firm on a visit to East Africa. The relevant part of the minute of this meeting reads (Exhibit 208; A.10 31-1-56):

"The proposition by the contractors that payment for the dam should be on the basis of gross prime cost plus 10 per cent, the figure to be reached by adhering as far as possible to the existing terms of the contract, was agreed" (A.11 31-1-56).

Copies of this minute were sent to Mr. Bridger, Mr. Edington and Mr. Forward and there was no evidence before us that any reply expressing either assent or dissent to it was made by any of these three persons. From this circumstance we consider that Messrs. French and Company were entitled to take up the position that Messrs. Bridger, Edington and Forward agreed that the minute accurately set out what had occurred at the meeting. In fact, of course, no one of those three persons was authorized to alter the basis of the contract without the prior authority of the Council itself. And it was no doubt on this ground that the City Treasurer refused to recognize that the basis of the contract had been changed. A position of deadlock was therefore reached, and it was in consequence of this that Messrs. Howard Humphreys & Sons were invited by the then Mayor (Sir Richard Woodley) on 26th January, 1950, to try to effect a reasonable settlement between the Council and the contractors (C.7 6-3-56).

83. While we are of opinion that there was no legal basis for the contention that the nature of the contract had been altered, we are prepared to discuss the

figure of final settlement on the footing that the Council had accepted by implication that the basis of the contract had been changed. We would add that, in the light of the Mayor's request and of the deadlock that had arisen, we are not disposed to criticize Messrs. Howard Humphreys & Sons' action in undertaking to effect a settlement if possible between the contractors and the Council. The only practical question that we consider we should investigate is whether the final settlement was fair to both parties.

84. On that aspect of the matter it was contended before us that Messrs. W. & C. French & Company were overpaid some £40,000 partly through the inclusion of inadmissible items of claim and partly through the existence of circumstances on the dam itself which resulted in short deliveries of ballast and sand.

85. We propose to deal with the latter first. Mr. Edington who, as we have already stated was resident engineer on the site at all material times, told us that he had come to the conclusion, after careful investigation and inspection, that there had been throughout a period of the construction work a substantial overpayment in respect of sand and ballast. He had in fact at an earlier date (5th December, 1950) summarized his conclusions on this matter in a letter which he handed personally to Mr. Forward, the local director of Messrs. Howard Humphreys & Sons in Kenya. This document (Exhibit 229) would seem to be of such importance that we set it out in full below:

"Resident Engineer, 5th December, 1950.
Sasumua Dam Construction.

PRIVATE

G. E. Forward, Esq.,
Messrs. Howard Humphreys & Sons,
Nairobi.

Ref. No. N2/1

RUIRU DAM FINAL SETTLEMENT

One of my greatest worries on Ruiru Dam contract was the Contractor's persistence in buying materials from M. R. Ghai & Sons, Ruiru, whose tendency towards giving short measure was very evident from the early days. If you refer to the extract from Progress Reports, etc., p.p. 6, 9 and 10, under the heading "Materials," you will see that I mentioned this unsatisfactory state of affairs, but only in general terms, since the situation was rather delicate.

Until Brigadier French's visit on 27th April, 1949, Ghai was the only supplier of stone and sand. Immediately after his visit, other suppliers of stone were engaged, but by September, Ghai was once again the only supplier. For the whole contract, stone was supplied in the following proportions:

Ghai	555,312 cu. ft.	..	82½ per cent
Colonial Contractors ..	58,249 cu. ft.	..	8½ per cent
Stirling-Astaldi	59,459 cu. ft.	..	8¾ per cent
Taylor Woodrow	200 cu. ft.	..	¼ per cent
Shah Vershi Devshi ..	200 cu. ft.	..	¼ per cent
	673,420 cu. ft.	..	100 per cent

I would like to discuss this matter with you when I see you next, but in order to show you how the Prime Cost was effected, I have calculated the theoretical consumption of stone and sand as follows:

Total concrete placed by W. & C. French		20,881 cu. yd.
Maximum content of 1 cu. yd. of concrete is 17 cu. ft. sand and 25 cu. ft. stone, which is equivalent to: 355,000 cu. ft. sand and 522,000 cu. ft. stone.		
Total grout placed by W. & C. French		310 cu. yd.
1 cu. yd. contains 35 cu. ft. sand = 10,850 cu. ft. sand.		
Total mortar used by W. & C. French		88 cu. yd.
1 cu. yd. contains 35 cu. ft. sand = 3,080 cu. ft. sand.		
Sand paid for under contract		451,665 cu. ft.
On site at start of contract		49,665 cu. ft.
		<u>501,330 cu. ft.</u>
On site at end of contract		500 cu. ft.
	Total	500,830 cu. ft.
Stone paid for under contract:		
Bought by W. & C. French		673,420 cu. ft.
On site at start of contract		51,784 cu. ft.
		<u>725,204 cu. ft.</u>
On site at end of contract		750 cu. ft.
	Total	724,454 cu. ft.
Sand paid for		500,830 cu. ft.
Sand necessary	368,930 cu. ft.	
Wastage 5 per cent	18,446 cu. ft.	387,376 cu. ft.
	Difference	113,454 cu. ft.
Stone paid for		724,454 cu. ft.
Stone necessary	522, cu. ft.	
Wastage 5 per cent	26,100 cu. ft.	548,100 cu. ft.
	Difference	176,354 cu. ft.
Value of difference:		
113,454 cu. ft. sand at Sh. 120		Sh. 136,144/80
176,354 cu. ft. stone at Sh. 106		Sh. 186,935/24
	Total	<u>Sh. 323,935/04</u>
		£16,154

(Signed)

RESIDENT ENGINEER."

86. It will be noted that Mr. Edington, in arriving at his conclusion that the total over-payments in the above matters amounted to roughly £16,000, had regard to what we understand is an accepted formula for measuring the amount

of material used on a particular project. We are satisfied that it was perfectly feasible for Mr. Edington reasonably to arrive at his conclusions by the adoption of this formula which, we are told, is in accordance with accepted practice. While therefore we give full weight to Mr. Dixon's comment that Mr. Edington's figures are theoretical and that there are certain imponderables which have to be taken into account, and while accepting Mr. Dixon's comment that the figure of £16,000 is only an approximation, we see no reason to doubt Mr. Edington's general conclusion that there was substantial over-payment in the neighbourhood of £16,000. Moreover apart from the fact that Mr. Edington struck us as being an entirely competent and reliable witness, there is the circumstance that his position was fully set out in Exhibit 229 which is embodied in the preceding paragraph and which was handed to Mr. Forward in December, 1950, and to which neither Mr. Forward himself nor his firm at any time replied. Mr. Dixon's explanation as to why his firm made no reply to Mr. Edington's letter was that Mr. Forward never informed the London office of its existence. The fact remains, however, that the circumstance that Mr. Forward did not think it necessary to refute Mr. Edington's conclusions tends in our opinion to confirm their validity. Moreover, Mr. Forward did not elect to give evidence before us and we have therefore not had the benefit of his personal explanation.

We are satisfied therefore that there was an over-payment in respect of sand and ballast of approximately £16,000, and that the final figure of about £235,000 which was paid to the contractors includes the amount over-paid in respect of these items.

87. There was a suggestion in evidence before us that these over-payments resulted from a criminal conspiracy. Mr. Boothway, who for a brief period was an accountant on the site in the employ of Messrs. W. & C. French & Company, tells us that he was approached by two of the firm's European employees with a proposal that he should join in with them and a Mr. Hiles, who was the senior representative of Messrs. W. & C. French actually on the site, in a scheme of deliberate short deliveries by the suppliers, Messrs. M. R. Ghai & Sons. Mr. Boothway tells us he declined the offer and reported the matter to Mr. Edington, a fact which Mr. Edington corroborates (C.4 1-2-56; C.5 1-2-56). Mr. Edington tells us that he told Mr. Boothway that he (Boothway) should therefore be particularly careful in his checking of deliveries. He adds that he himself did not attach very much importance to the two European employees, but that he did feel a little anxious as to Mr. Hiles (D.8 1-2-56). Shortly after this Mr. Boothway was transferred from the site to the Nairobi office. We would add in fairness to the contractors that, while Mr. Boothway wrote a letter of complaint about the conditions under which he had to work on the site, he did not make it clear to the contractors in either of the letters (Exhibits 227 and 228) which were produced before us that he was aware of or suspected the existence of a deliberate plan of short delivery of materials.

88. Mr. Ghai, a partner in the firm of Messrs. M. R. Ghai & Sons, denied (A.12 19-3-56) that he or his firm was a party to any such scheme of short delivery. Mr. Hiles did not give evidence before us (D.8 1-2-56), although there was produced through Messrs. W. & C. French's advocate an affidavit (Exhibit 446) sworn by Mr. Hiles in London, in which he denied that he had been guilty of or was aware of any irregularities on the site.

89. Having regard to the evidence which was given before us, we do not consider that we are in a position to find precisely how these short deliveries came to be made. We therefore confine ourselves to our conclusion that there was in fact substantial short delivery of sand and ballast to the value of approximately £16,000.

90. With regard to the question as to whether there were also contained in the final settlement certain inadmissible items of claim, we feel we need say no more than that we consider that the material before us is insufficient to enable us to come to any positive conclusion.

91. We are of opinion that no criticism can reasonably be directed against the Mayor for desiring to arrive at a peaceful settlement in order to resolve the deadlock and for asking Messrs. Howard Humphreys & Sons to exercise their good offices in the matter. Nor, as we have already stated, do we attach any blame to Messrs. Howard Humphreys & Sons for accepting the Mayor's invitation. It is true that having regard to our view of the legal position to which we have already referred, the additional payment (i.e. in excess of £195,000) to the contractors was in effect *ex gratia* payment. But in view of the attitude adopted by the Mayor on behalf of the Council, it makes of course no practical difference whether the payment was made *ex gratia* or by right of contract. It is for these reasons that we have approached this matter on the footing that the practical question for us to decide was whether the payment that was ultimately made (be it *ex gratia* or not) was a reasonable payment having regard to the interests both of the contractors and of the Council. We have already stated in paragraph 86 and 89 our conclusion that an over-payment of some £16,000 was made to the contractors in respect of sand and ballast not delivered to the site of the dam.

92. Before leaving this matter of the dam, we would refer to a suggestion that was made before us that Mr. Bridger was at fault in not preventing this over-payment in respect of the short deliveries, in that he was at the relevant time the appropriate technical adviser to the Council. Having regard, however, to the evidence of Mr. Edington himself on this point that he regarded the matter as too delicate to be conveyed to any of the Council staff, we do not feel that there is any logical basis for this criticism, in that in the absence of knowledge of the contents of Mr. Edington's private letter to Mr. Forward (set out in paragraph 85), Mr. Bridger would not have been in a position, merely by an inspection of the delivery figures upon which the final settlement was based, to have arrived at any conclusion as to whether these figures correspond with the actual deliveries (B.24 2-2-56).

"MR. GEORGIADIS: I just have two questions I want to ask. I just want to ask Mr. Edington, did any Council employee or Council officer become aware of Hiles's shortcomings at any time before the final settlement?"

MR. EDINGTON: Not to my knowledge, no. I felt the matter was much too delicate to even be mentioned to any Council employee. I felt that having reported it to the engineers I had done my part, and I am quite certain I never mentioned it to any Council employee.

Q. For instance, the City Engineer's Department knew nothing about it at any stage?

A. No.

Q. And did not lead you to believe that they knew anything about it from conversations, subsequent or prior to the final settlement?

A. No."

THE HON. C. MADAN AND ALDERMAN MOHAN SINGH

93. Certain suggestions were made before us that Mr. Madan, Parliamentary Secretary to the Minister for Commerce and Industry and Alderman Mohan Singh had intervened on behalf of Mr. Chanan Singh with Mr. Mould, the architect in charge of African housing, for the reason that they had some undisclosed interest in Mr. Chanan Singh's affairs. These two gentlemen gave evidence

before us and denied that they had any financial interest in Mr. Chanan Singh's affairs. Moreover, both of them said—and Mr. Somen himself corroborated this—that the reason for their discussions with Mr. Mould about Mr. Chanan Singh's contract was that Mr. Somen, who at that time was the Mayor, had specifically asked them to do so. We accept their evidence on both these points and are quite satisfied that their actions in this matter are above criticism. Moreover we see nothing improper either in Mr. Somen's request or in these gentlemen's compliance with it.

MAKADARA DRAINS

94. We now propose to deal with the contract relating to the construction of some drains at Makadara which are in an African housing estate in the eastern portion of the City at Doonholm Road (D.2 10-2-56). The contract was given in October, 1953, to a contractor called Abdul Karim, and the drains were constructed during the latter part of 1953, the whole of 1954 and January, 1955. The engineer-in-charge was Mr. Charnley.

The drains in question are roadside drains to collect storm water and sullage from the neighbouring roads and plots (D.6 10-2-56; D.8 10-2-56). Mr. Roberts told us that the specification was of a low standard. In March, 1955, Mr. Charnley apparently resigned from the Council and handed over his responsibilities and papers in the contract to Mr. Roberts when the project was in its maintenance period. In about April, 1955, Mr. Roberts received a visit from a Mr. Cuthbert, a member of the City Treasurer's audit staff (D.9 and 10 10-2-56), who expressed anxiety about the condition of the drains and mentioned incidentally that the contractor, Mr. Abdul Karim, had run into financial difficulties.

95. The maintenance period, according to Mr. Roberts, disclosed certain defects, principally in the culverts (D.11 10-2-56). Three of these were shown on inspection to be beginning to break up and were only covered with a very thin skin of concrete on the top, there being no concrete underneath or on the sides. These matters are evidenced in the photographs which were produced before us (Exhibits 242-254). Mr. Roberts added that "Such concrete as there was was concrete by courtesy" (D.12 10-2-56), and that the culverts were definitely below the specification laid down in the contract, low as the specification itself was. In Mr. Roberts's opinion, it would cost £1,900 to bring the work up to specification; but owing to the low specification, the drains would still be of a poor quality even after the expenditure of this £1,900.

96. The various defects in the work are described in detail by Mr. Roberts, and are illustrated by the photographs produced by him (D.17 to E.14 10-2-56) (Exhibits 242-254). We need say no more than that we are fully satisfied that the work was thoroughly unsatisfactory and well below specification standard. As a result, the Council have lost in all a sum of £2,499 (F.4 10-2-56).

We would add that we are satisfied that these substantial defects could and should have been discovered by the engineer in charge of the work if proper supervision had been exercised. Mr. Roberts replied to a question on this matter (E.7 and 8 10-2-56):—

"A. He should have been able to indeed, yes, Sir, had he had the time to do so."

We would also refer to the following passage:—

"Q. These pipes are supposed to be laid in a concrete bed, are they?"

A. These pipes are supposed to be laid on a 6-in. concrete bed and surrounded by concrete.

Q. And all they have done is put a cap over it?

A. That is correct, Sir, yes.

Q. Do you call that a deliberate attempt at deception?

A. A very deliberate attempt at deception and a very common thing in the town."

97. We would just add a word as to the contractor himself:—

"MR. GEORGIADIS: Where is the contractor, do you know (F.5 10-2-56)?

MR. KENT: The last I heard of him he was somewhere in Tanganyika. We have tried to write to him, but the letter has been returned 'Not known'.

SIR ALAN ROSE: Was he known when he got the contract?

A. I have been here for seven years and I have never heard of him before."

And this is the contractor who was entrusted with this contract to the value of some £11,000. It is true that as construction contracts go that is not a large sum, but Mr. Roberts told us that there were a number of contractors in the middle category (F.10 10-2-56), not as good as the best but very much better than the chosen contractor, who might have been available.

WOODLEY HOUSING ESTATE

98. Mr. Fallon, Chief Accountant of the Council, told us about this estate which was built for European occupation. The estate consisted of 70 houses together with boys' quarters and the contract price was Sh. 2,296,602 (£114,830). The contractors were Messrs. Harnam Singh & Company, the contract being obtained by open tendering. There was a time penalty clause which was exercised in this particular case and the contractors in fact paid Sh. 2,040. A question then arose as to compensation to the contractors for delay on the part of the Council in handing over a section of the site, and it was decided that a figure should be negotiated between the Council and the contractor. The negotiations on behalf of the Council were conducted by Mr. Grieve who at that time was Deputy City Engineer. The result of the negotiations was that a sum of Sh. 30,000 (£1,500) was paid to the contractors.

The only comment that we have to make upon this matter is that, as Mr. Fallon pointed out to us, there appears to have been no formal authorization by the Council of this payment. The matter was reported to the Council in the sense that there was a question of payment of compensation, but no further reference to the result of the negotiations appears to have been made. Mr. Fallon agrees that it would have been more prudent had the formal approval of the Finance Committee been obtained.

99. A further point arose on this contract. We were informed (A.6 27-2-56) that the placing of the trial holes did not always coincide with the siting of the houses, wherefore the contractor claimed that he had been misled and consequently put to extra expense in that he found it necessary to dig far deeper to reach foundation level than he had expected from an examination of the trial holes.

In the event, he was paid a total of Sh. 45,072 (£2,253.12.0).

100. Mr. Fallon told us that that payment was made on a variation order issued by the architect in charge at the time, a Mr. Lovelock (A.7 27-2-56). Mr. Fallon expressed the view—with which we agree—that that was not a proper way of making the payment, this eminently being a matter which should have

been submitted to the Finance Committee as the payment would seem to have been entirely contrary to clause 3 of the contract which read (A.8 27-2-56):—

“The contractor is to visit the site, inspect trial holes and ascertain for himself its nature and position as no claim for extras would be allowed on this account or on account of additional depth of the foundations.”

While therefore we do not suggest that the payment was inequitable, we consider that it was eminently one which it was in the discretion of the Finance Committee to allow or disallow upon an *ex gratia* basis.

101. Mr. Grieve referred to these matters in his evidence and agreed that there were two issues, (1) a payment to the contractors to cover their loss of time whilst awaiting the handing over of part of the site, and (2) the extra expense entailed by the unforeseen depth of foundations. He declines, however, to accept personal responsibility for the variation order which he says was issued after discussions with the City Engineer and the Treasurer. Be that as it may, he does not suggest—and it is clearly not the case—that any formal covering approval was obtained.

102. Mr. Harnam Singh of the firm of contractors told us (B.1 to C.2 27-2-56) that upon a number of occasions he found it necessary to offer bribes to Mr. Glover, the Clerk of Works, in respect of this particular contract. He stated that he had made various payments of Sh. 500, Sh. 600 or Sh. 800 on four or five occasions. He estimated his total outlay as between Sh. 2,000 and Sh. 3,000, adding that Mr. Glover told him that he found it hard to make both ends meet.

Mr. Glover emphatically denied these allegations (C.4 27-2-56). No evidence was produced to us of enmity between the Clerk of Works and the contractors, but it is obviously most difficult for us to come to a definite finding on the basis of unsupported allegations on the one hand and denials on the other, and we therefore find these allegations are not proved. Mr. Glover frankly admitted that it had been his practice to accept at Christmas time, up to Christmas, 1954, the usual *kikapu* of liquor, chocolates, etc., from various contractors employed by the Council (C.14 27-2-56).

NAIROBI FIRE BRIGADE

103. We were informed by Mr. Littleton, Assistant Superintendent of Police attached to the Criminal Investigation Department (A.4 5-3-56), that on 7th July, 1955, he arrested a Mr. Herbert George Wallace who until his resignation a few weeks previously, was the Fire Master of the Nairobi Fire Brigade, which falls within the City Engineer's Department. Mr. Wallace was charged with stealing a Denis fire trailer pump, the property of the Council, which had been purchased by the Council in April, 1953. He was alleged to have sold it in January, 1954, to the Atlas Machinery Supplies Company (Africa) Ltd. for £175. He was tried before the Supreme Court, convicted on 11th October, 1955, and sentenced to a term of nine months' imprisonment.

104. This does not appear to have been the only irregularity in the Fire Master's Department. A Mr. Farrant, the Managing Director of the Atlas Machinery Supplies (Africa) Ltd., tells us that he entered into a number of transactions with officers of the Fire Brigade, Mr. Wallace, Mr. Walker and Mr. Anderson. It appears that on one occasion he bought 13 fire extinguishers from Mr. Walker for Sh. 1,040 and then sold them back again to the City Council later on the same day. Mr. Farrant tells us that he cannot remember whether he ever saw these 13 fire extinguishers, the whole matter obviously being merely a paper transaction (Exhibit 370). On another occasion, Mr. Farrant bought from Mr. Wallace two sections of hose, one of 300 ft. and one of 21 ft., for Sh. 1,000.

On this and the earlier occasion he paid by cash cheque. On the next day he resold these two sections of hose to the City Council for Sh. 1,110. Once again, Mr. Farrant cannot remember whether he ever actually saw the two sections of hose, so it would appear that this, too, was a purely paper transaction.

No evidence was adduced as to the source from which these fire extinguishers and sections of hose were obtained. The relevance of the matter from the point of view of our terms of reference is that it would appear from these and some more transactions to which we will refer in the next paragraph that there were in the City Fire Service a group of officers who were trading in fire equipment on their own account. It is obvious that this is a malpractice and one that is particularly serious in the light of the evidence of Mr. Gorton (the Internal Auditor) about the unsatisfactory state of the inventories of Fire Brigade equipment (A.6 to A.23 5-3-56), in that it can only too easily lead to the sort of criminality revealed by the prosecution of Mr. Wallace.

105. On 1st August, 1953, Mr. Farrant bought from Mr. Wallace certain couplings (A.33 5-3-56) for Sh. 540, which he later sold to Messrs. R. G. Vernon and Company for Sh. 840. Again there is no direct evidence as to the source from which Mr. Wallace obtained these couplings (Exhibit 372).

On 27th August, 1953, Mr. Farrant bought two burglar alarms from Mr. Wallace for Sh. 120 and sold them to the Motor Mart and Exchange for Sh. 400 (Exhibit 373).

On 11th September, 1953, Mr. Farrant bought from Mr. Wallace five extinguishers for Sh. 150 (A.37 and 38 5-3-56). Subsequently, he resold these to the Prisons Department.

On 20th November, 1953, Mr. Farrant bought from Mr. Wallace a Denis pumping unit for Sh. 740 and shortly after sold it for Sh. 1,000 to the East African Railways and Harbours Administration.

On 23rd November, 1953, Mr. Farrant purchased from Mr. Anderson a section of hose (Exhibit 377) for Sh. 300 and sold it two days later to East African Enterprises for Sh. 580.

On 10th April, 1954, Mr. Farrant bought from Mr. Wallace a fire pump for Sh. 270 and sold it to a Mr. Ogilvie two days later for Sh. 300. With regard to this transaction (A.44 5-3-56), Mr. Farrant tells us that Mr. Wallace told him that it used to belong to the City Council and that he (Mr. Wallace) had got authority to sell it because it was an obsolete model. We would point out that Mr. Gorton, when asked about this, stated that Mr. Wallace had no authority to sell any pump on behalf of the Council (C.1 and 2 5-3-56) and that no money was ever received by the Council in respect of this sale. In this case, it appears that Mr. Farrant had a client for a pump of this kind and approached Mr. Wallace to see if he could supply one. Upon being supplied with this particular pump, he paid Mr. Wallace by means of a cash cheque (Exhibit 378).

On 27th April, 1954, Mr. Farrant bought from Mr. Wallace a section of hose marked "ex-disposals" for Sh. 200 which he subsequently sold the next day to Mr. Ogilvie for Sh. 320 (Exhibit 379).

A Mr. Howarth gave evidence before us and told us that he was the manager of the Pitt-Moore Estates, Kiambu (B.4 5-3-56). It appears that in 1953 some hose was wanted for the estates in connexion with an irrigation scheme. He told us that he paid a visit to the Fire Service of the City Council in this connexion and saw Mr. Wallace, the Fire Master, who showed him some hose, which, however, did not prove suitable. The hose shown on this occasion was situated actually at the Fire Station. Subsequently, Mr. Wallace stated that he could let Mr. Howarth have some "bigger stuff". Mr. Howarth went to see this, which was in an Asian *duka* behind Victoria Street. Mr. Howarth agreed to buy about 1,000 ft. of that

hose for which he sent a crossed cheque to the Fire Master of the City Council because, as he told us, he thought it was City Council property. He received in reply a letter from the City Treasurer's Department dated 28th October, 1953, stating (Exhibit 380):—

"Dear Sirs,

I have received your cheque for Sh. 3,465/75 made out to Nairobi Fire Services and shall be glad to know what account this is for."

On 3rd November, 1953, Mr. Howarth received a further letter from the City Treasurer returning his cheque and stating that:—

"Our Fire Master assures us that no hosing has been purchased from us, so I return your cheque herewith."

Mr. Howarth thereupon telephone to Mr. Wallace, the Fire Master, who said that it was a private matter; that he had got the fire hosing on his own account and that it was not City Council property. Mr. Wallace asked Mr. Howarth to make out the cheque to a Mr. G. M. Perrin, who later gave evidence before us and who is also a member of the Nairobi Fire Service. We would add that it is perhaps of some significance that in regard to this transaction Mr. Howarth, until this telephone conversation took place, was definitely under the impression that he was being sold property which belonged to the City Council.

106. A Mr. Perrin, who has been employed since 8th June, 1953, in the City Council's Fire Department, stated that he had a bank account with the Standard Bank of South Africa—distinct from his private account which he kept with Barclays Bank—which he opened on 14th July, 1953. Mr. Perrin told us that the original idea of opening this account was that the personnel of the department, when they arrived in Nairobi, found financial difficulty in setting up homes for their families. This bank account was apparently for the benefit of a small syndicate consisting of himself, Mr. Wallace, Mr. Anderson and Mr. Walker, who were of course members of the Fire Service. In answer to a question as to what was the purpose of opening that account, Mr. Perrin replied (B.13 5-3-56): —

"The original idea was that the personnel when they arrived in Nairobi found financial hardship in setting up their homes for their families and it was to enable us to purchase items of furniture from sale and so forth—to generally help each other and everyone as they arrived."

But later in his evidence (B.15 5-3-56) he stated that the account was actually operated by a syndicate which dealt for a period of a year or two in fire equipment.

The entries in the account indicated a relatively minor scale of trading and do not appear to include the transactions to which we have referred in the preceding paragraph. That being so, we are not prepared to find that Mr. Perrin himself had any knowledge of the transactions which were handled by Mr. Wallace, Mr. Anderson and Mr. Walker except for the instance of the sale of hose to the Pitt-Moore Estates to which we have already referred, where Mr. Perrin received a crossed cheque, which however would not seem to appear in the statement of his bank account which was produced to us.

TIMAU AND TIGONI ROADS

107. Mr. Roberts, the Chief Assistant Engineer in charge of roads and sewers, told us that the Upper Nairobi Township and Estate Co., Ltd. (the owners of part of the area known as L.R.I.) (C.I 15-2-56), obtained in July, 1950, from the City Council as a planning authority permission for the sub-division of their holding into building plots. A condition of the permission to sub-divide was that these roads should be "all-weather" roads. We were told that the normal practice is for such roads to be made with a murrum surface and with drains, culverts and foot-

paths, to serve while building operations are being carried out, and that subsequently the provisions of the Private Streets Works Ordinance are applied and the roads have then to be made up to a bitumen standard before being taken over by the Council, the cost being borne by the various owners of the plots according to the length of their frontage.

Evidence was produced that the Estate Company were given a lower specification for these roads than was usual (one that would cost less money) and were permitted to bring the roads up to a tarmac finish before development had even started. On the recommendation of the City Engineer these roads were adopted by the City Council in 1953, and broke up in the following year. The City Engineer's report to the Works Committee of June, 1953, merely stated: "Timau and Tigoni Road: these roads have been constructed to specification approved by the City Council, and should now be taken over" (A.10 to 13 and A.19 16-2-56).

108. Mr. Saunders told us that he first heard about these roads some time in 1954 (C.1 16-2-56) when a ratepayer came to him and complained that the roads were "pretty shocking" and that he thought it was a bad thing that the Council had taken them over. Mr. Saunders at that time was unaware that the Council had taken them over, and in good faith reassured the ratepayer accordingly. Subsequently he telephoned Mr. Roberts, who had recently taken over the post of Chief Assistant Engineer, and he was also under the same misapprehension. Mr. Saunders told us that he had noticed these roads from time to time and had been impressed by their bad condition. At a somewhat later stage, to quote Mr. Saunders' exact words: "I learnt the ghastly truth that in fact we had taken these roads over," and he then immediately asked Mr. Allin, who was at that time Assistant Engineer in charge of roads, to give him a report on the matter. Mr. Allin's report was received by Mr. Saunders through Mr. Roberts and was to the effect that the roads were seriously below the required specification (Exhibit 297).

Mr. Saunders replied to Mr. Roberts on this matter:

"1. Now that we have taken these over, we'd better make the best of a bad job.

2. I suggest that we should: (a) remove premix surface; (b) when development is about 80 per cent complete, replace by two-coat work.

3. This can be done under heading of maintenance, but should the site conditions be found later to require complete reconstruction of the roads to normal Private Street Works Specification, then we'll have to put a scheme up to Works Committee—possibly for 1956 Estimates" (Exhibit 300, C.4 16-2-56).

Evidence was also given by Mr. A. Smith, the City Council's Highways Superintendent, to the effect that he had noticed these roads being made, but had been quite unaware that they were being constructed for early adoption by the City Council. He was "amused" rather than disturbed at the low specification and casual method of construction (B.19 to 29 16-2-56), but was never asked to inspect the roads and would never have passed them as satisfactory. He thought they were "somebody's private drive", and only learned that the roads had been adopted after the event.

109. Mr. Roberts told us:—

"Q. What is the state of these roads to-day?

A. Well, they are less than our Private Streets Work Specification. They have broken up. There is very little which we can do about them other than to completely reconstruct them and we may salvage a little of the work—the curbs and so forth we may not have to take out. You may say the present-day

cost of bringing the roads up to full specification is now about Sh. 60 per foot, so that we have to spend about £7,200 to bring them up to the normal Private Street Works Specification at to-day's prices.

Q. Is that a loss to the Council of £7,000?

A. Yes, Sir.

Q. Which has in fact been passed on to the Corporation by a private company?

A. Yes, Sir.

Q. Have you done any repair work at all so far on these roads?

A. The only thing we have done so far is to place murrum in the pot-holes" (B.2 15-2-56).

110. We visited the Timau and Tigoni roads on Friday, 17th February, the day after Mr. Roberts gave this evidence, and at the next sitting of the Commission, Mr. Saunders put on record what we had inspected (A.1 20-2-56):—

"Eight trial holes had been opened near the edge of the carriage way, three of them in Timau Road and five in Tigoni Road, and from them it was seen the roadway consists of a premix surface on a layer of murrum with black cotton underneath the murrum. The route followed by the Commission in inspecting the roads was from Hurlingham Road northwards along Timau Road to Tigoni Road, and thence westwards and southwards along Tigoni Road back to Hurlingham Road. The trial holes were numbered in that order, and this is what was found in them.

Trial Hole No. 1 in Timau Road near the junction of Hurlingham Road, 6½ inches of murrum and no premix. This trial hole was on a section of the road which had been very badly carved up by builders' traffic, and had been made good with murrum.

Trial Hole No. 2 in Timau Road, 6 inches of murrum and 1½ inches of premix.

Trial Hole No. 3 in Timau Road, 7 inches of murrum and no premix. Again repairs had been carried out here in murrum to the original surface.

Trial Hole No. 4 was on the junction of the Timau Road and Tigoni Road and had 4 inches of murrum and 1 inch of premix.

The remaining trial holes were in Tigoni Road. No. 5, which was on the right-angle bend in the road, where its direction changed from west to south, 6 inches of murrum with stones and 1 inch of premix. No. 6, 9 inches of murrum and 1 inch of premix. No. 7, 7 inches of murrum with stones and 1½ inches of premix. No. 8, which was near the junction of Hurlingham Road, 5 inches of murrum and 1½ inches of premix. This gives an average figure of 6 inches of murrum and 1½ inches of premix, as against the quantity specified of 8 inches of murrum and 1½ inches of premix."

111. In the report (Exhibit 297) made by Mr. Allin to Mr. Saunders dated 24th July, 1954, to which reference has already been made, Mr. Allin states:—

"One consequence has been that the Upper Nairobi Township and Estate Company Ltd. have advertised for sale cheap building plots and no road charges. Therefore, all people who have had to pay Public Street Works Charges on other roads have grounds to complain."

Mr. Roberts, commenting upon this statement of Mr. Allin's, said:—

"It would seem to me to be a legitimate statement, Sir. The normal cost of the Private Street Works was about Sh. 25 per foot of frontage at that time. These roads to the lower specification only cost Sh. 15 per foot of frontage,

and therefore the developer would be able to offer plots on tarmac road at a lower rate than possible to other persons in town." (A.20 16-2-56.)

While there was no evidence produced to us which would indicate that there had been any deliberate action on the part of any of those concerned with the making of these roads to defraud the Council, the fact remains that the absence of a clear policy of what were the minimum requirements which had to be fulfilled before roads could be taken over by the Council, and a singularly unfortunate lack of liaison between the City Engineer and the members of his staff responsible for roads, has resulted in the Upper Nairobi Township and Estate Company having these roads adopted by the Council at lower cost to the company than should have been the case, and the ratepayers having to shoulder the responsibility of reconstructing these roads at a cost in the neighbourhood of £7,000.

MILD STEEL BARS

112. Mr. Williamson, the Deputy City Treasurer of the Council, told us that the City Council of Nairobi invited tenders for the supply and delivery of 627 tons of mild steel reinforcing bars in lengths of 20 ft. to 22 ft. Although no specific mention is made in the invitation as to what form of "ton" was intended, Mr. Williamson told us—and we accept it—that in the absence of any mention of any other kind of ton, the normal ton of 2,240 lb. was meant, and not the metric ton of 2,204 lb. or, still less, the short ton of 2,000 lb. Several tenders were submitted, the successful tenderer being the British East Africa Building Equipment Company. It is to be noted that in their letter of tender dated 18th October, 1951 (Exhibit 303), there is no mention of metric tons, the letter merely referring to "tons". The consequential resolution of the Tender Board reads as follows:—

"RESOLVED: The tender of East Africa Building Equipment Company for the supply of 627 tons of mild steel reinforcing bars at the price of £44,705.2.0 be accepted."

Subsequently, the successful tenderers wrote a letter to the City Engineer pointing out that their original tender had been made in error in that the Japanese suppliers dealt in metric tons (i.e. 2,204 lb. to a ton) and not in normal tons, and therefore their tender should be read in that light. In reply to that Mr. Grieve, the Acting City Engineer, wrote on 4th December, 1951:—

"Dear Sirs,

CONTRACT FOR THE SUPPLY OF REINFORCING STEEL

I refer to your letters dated 21st and 26th November, 1951.

I have examined the quotations which you received from Messrs. Greenhill, Kato & Company Ltd. in respect of the steel for which you have contracted with the City Council to supply. I agree that the original quotation from Japan was for metric tons, and in these circumstances I agree to accept delivery in metric tons.

I return herewith the documents referred to herein." (C.14 20-2-56.)

The result of the acceptance of these metric tons, which was done by Mr. Grieve without demur, was to increase the contract price by, we are told, approximately £700 (C.15 20-2-56). Mr. Williamson told us that in his view this matter should have been referred in the first place to the Works Committee and thereafter to the Finance Committee for the reason that this acceptance of metric tons amounted in effect to a substantial variation of the contract.

While we do not suggest there was any impropriety in this matter, we would point out that this is yet another case in which the correct financial procedure was not followed.

LOAN TO VACU-LUG TRACTION TYRES (E.A.) LIMITED

113. Mr. O'Toole, the Managing Director of the Car & General Equipment Company, told us (A.7 1-3-56) that on 10th January, 1956, he wrote (Exhibit 363) on behalf of his firm to the City Treasurer of the Council inquiring whether it was true that the City Council had loaned funds to a local company to purchase retreading and vulcanizing equipment and requesting that, if this was true, he might be given details of the transaction. The witness did not receive any satisfactory reply to his inquiries, and so the matter was raised before us, Mr. O'Toole no doubt feeling a genuine grievance that his firm had not been given the opportunity of purchasing the necessary retreading equipment, that is to say equipment capable of dealing with the giant tyres fitted to earth-moving equipment owned by the City Council.

Mr. Kent's explanation (B.1 to B.9 2-3-56) was that at that time there were only two machines of this type in Kenya and that it had been represented to him by Mr. Edington of the Engineering Department that work would be seriously held up in the event of damage to a tyre. The retreading apparatus was expensive and would not be worth any local firm importing in view of the very limited demand for its service. The arrangement therefore was that the expense of the installation should be borne by the Council and that they should be reimbursed by the selected firm as time went on. The firm in question, the Vacu-Lug Traction Tyres (E.A.) Limited, was lent £800 for this purpose. As to the reason for the course adopted by the City Council, Mr. Kent said:—

"Q. Is it normal for the Nairobi City Council to enter into this type of Agreement?

MR. KENT: No, Sir.

Q. I take it you would defend your position on the grounds of necessity?

A. I would defend it completely on those grounds.

Q. Was any question ever considered of inviting a number of firms to partake in this agreement?

A. No. As I say, the report was that there appeared to be only one firm that was interested. The matter was of considerable urgency and I must say, in favour of Vacu-Lug, that they moved extremely rapidly in obtaining the chamber and having it made. I think the chamber was ready in three months."

We are satisfied that the loan was properly made and that no impropriety was involved. We would merely point out that had inquiries been made, other than orally, from other firms at the time, and even perhaps had Mr. O'Toole's inquiries been more understandingly answered, this criticism that a particular firm received preferential treatment might have been avoided. We would add that Mr. Kent would seem now to share this view (B.7 2-3-56).

MR. BURTON, MARKET MASTER

114. There were allegations against Mr. A. A. N. Burton, who is employed by the City Council as Market Master in their Mincing Lane Market (A.4 *et seq.* 23-2-56). A number of Africans working in and around the market testified before us (A.6 *et seq.* 24-2-56) that Mr. Burton was in the habit of calling upon them to work in his garden (*shamba*). It is true that this work was done when their activities in the market had ceased and that Mr. Burton promised them a "feast" at some later date, but the fact remains that their labour on the *shamba* was unpaid.

So far from being satisfied that these labourers gave their services willingly, we have come to the conclusion that Mr. Burton's action aroused resentment. In this connection we would point out, as was indicated in the evidence before us,

that a request to work in his *shamba* by Mr. Burton amounted, having regard to his position as Market Master, to a command.

Mr. Burton admitted that he employed labour under the conditions that we have stated (B.28 24-2-56). That being so, we regret that we must designate his conduct in this matter as improper.

Incidentally a woman stall-holder in the market, Florence w/o Kiguru, refused to work on Mr. Burton's *shamba*, and a suggestion was made to us that it was as a result of this refusal that her name was included at Mr. Burton's instance in a list of persons who were to be administratively repatriated to their Reserves. It is unnecessary to refer to the details of this matter as we are satisfied in the light of a letter which Mr. Heath-Saunders, a District Officer, very properly wrote to us (Exhibit 445) that the inclusion of this woman's name was due to a misunderstanding for which Mr. Burton was in no way responsible.

115. Now it appears that in September, 1955, there was a surplus of squatter-grown potatoes in the Bahati Forest near Nakuru, and that Mr. Burton on request—quite properly, we think—introduced two or three African traders with a view to purchase and disposal. One of these traders, Mr. Joseph Omira, finding himself in possession of a consignment in excess of his requirements, explained his predicament to Mr. Burton, who thereupon allocated 50 bags to a Mr. Duncan Kinuthia at a price of Sh. 1,020. Mr. Kinuthia told us that he disputed that he had ordered these potatoes and that he had declined to accept or pay for the consignment, which moreover had by this time deteriorated. We accept his version of these matters.

When Mr. Burton insisted upon his paying for these potatoes, Mr. Kinuthia went to see a Mr. Trowell, of the Horticultural Co-operative Union, and explained the matter, whereupon Mr. Trowell caused a letter to be written to Mr. Burton setting out Mr. Kinuthia's story and asking for an explanation (Exhibit 317). It is sufficient, we think, for us to say in this connection that Mr. Burton thereafter dropped the matter and made no further attempt to insist upon Mr. Kinuthia taking over this consignment.

While in the event no harm was done owing to the firm stand adopted by Mr. Kinuthia, we regret that we must describe Mr. Burton's attempt to foist this consignment of potatoes that had by that time become bad upon a man who had not ordered and had no responsibility for them, as, at the least, indiscreet (B.19 24-2-56).

116. A point arises as to the method by which an increase of the rentals of stalls in the petty trading yard of the Mincing Lane Market was effected (B.10 24-2-56). Mr. Burton told us that in December, 1955, the City Council resolved to raise rentals from Sh. 1 to Sh. 1/25 a day. It appears to be the case however that the appropriate by-law had not been correspondingly amended. Mr. Riseborough, the Town Clerk, in a letter dated 12th March, 1956 (Exhibit 448), to our Secretary, explained that the resolution of the City Council should not have been acted upon until the by-law had been appropriately amended, and that no authority had yet been issued from his office for the increase, the proposal being that the amendment in question should be submitted to the April meeting of the Council for adoption.

While we have no doubt that Mr. Burton acted in perfectly good faith in charging the increased rate from December, 1955, we would point out the obvious danger that might arise from such a mistake. The public must obviously be in a position to know what are the correct rentals, and the absence of a clearly worded notice setting out the various rentals and quoting the authority for them might well lead to abuse. We would suggest that notices should be dis-

played in such places at the Town Hall and African markets, in both English and the vernacular, informing applicants for hawker's and trader's licences exactly how to obtain such licences and exactly what the licence fees are.

117. Although we have unhappily had occasion to criticize Mr. Burton in one or two matters, we feel that we should record our general impression derived from the evidence as a whole that Mr. Burton is a competent market master, and that as a result of the strict discipline which he has maintained, conditions in the market, since his assumption of office, have shown considerable improvement.

MR. DEDAN GITHEGI

118. There were many allegations made before us by no less than ten witnesses that Mr. Githegi—the City Council's Assistant African Affairs Officer—had demanded and accepted bribes for recommending applicants for the grant of hawker's and trader's licences (A.1 *et seq.* 21-2-56; B.1 *et seq.* 22-2-56; A.39 *et seq.* 13-3-56).

Apart from the weight to be attached to specific allegations—and we would observe that we were impressed both by the number of the episodes deposed to and the general demeanour of the witnesses—there is the consideration that the background was one where the existence of bribery might not unreasonably be assumed for the reason that in the eyes at any rate of a great many Africans Mr. Githegi must have appeared to have had the sole deciding voice in the granting or refusing of a licence. We are however confronted by allegations unsupported by factors of corroboration on the one hand and denials on the other, and therefore are not disposed to find that any particular allegation has been established.

Mr. Passells, the City African Affairs Officer, told us that either he or his deputy was always ready to grant interviews upon request (B.9 13-3-56). We are of opinion however that the existence of any appeal from Mr. Githegi's decisions was not generally appreciated by Africans. We would suggest for the consideration of the City Council that they should endeavour to evolve some machinery whereby the public could have access to some recognized channel of appeal from a decision of any officer of the City African Affairs Department entrusted with the task of advising on the issue of traders' licences, and that steps should be taken to bring this machinery to the notice of the public.

TENDER BOARD

119. We feel that we should comment upon the system of tendering as it was described to us in evidence. Both Mr. Udall, Chairman of the Tender Board, and Mr. Riseborough, the Town Clerk, told us that the practice was for tenders to be opened in public by the Chairman of the Tender Board and for the figures to be read out (C.2 *et seq.* 2-3-56). It is the practice, we are told (A.3 *et seq.* 19-12-55), for the tenderers to be present at the opening of the tenders and indeed also for any member of the public who might be interested.

The general practice in other places, we understand, is for tenders to be opened in private, and we see no good reason for a departure from this practice. Mr. Riseborough himself pointed out a disadvantage in the practice followed by the Council, namely that a tenderer becomes aware of the exact position he occupies in the list of tenderers and therefore might be in a more advantageous position to canvas his own claims during the week or ten days which, we are told, normally elapse between the opening of the tenders and the selection of the contractor by the Tender Board.

120. Mr. Udall told us that in the event of any tender, other than the lowest, being accepted (C.11 to 14 2-3-56), it was not the practice for the Board to record their reasons for such a selection, the reason that he gave being that they had

plenary powers and that no such record was necessary. While there is no evidence before us to suggest that this practice of the Tender Board has in fact been abused, we would nevertheless suggest for the consideration of the Council that it might perhaps be prudent to fall into line with the general practice on this matter which, we understand, is for a Tender Board, when not accepting the lowest tender, to state in writing, as a matter of record, the reasons for their decision. The adoption of this standard practice would obviate the criticism that members of the Tender Board may at times, as a result of representations from interested parties, have come to decisions for reasons unconnected with the merits of rival tenderers.

VARIATIONS

121. Generally as to variations in contracts, we would observe that it would seem to be desirable that no laxity should creep into the procedure. It appears to be common ground that the correct practice, if the proposed variation involves any considerable sum, is for the matter to be referred to the appropriate Committee for approval. The necessity for such a practice is demonstrated *inter alia* by the fact that departure from it might well in practice make nonsense of the tender procedure, for the reason that the appropriate Committee might well decide, in the case of what they regarded as an excessive variation, to resubmit the matter for the consideration of the Tender Board. In the evidence before us however several examples were given of variations in which reference to the appropriate Committee was not made at all, or at any rate no record of such reference could be produced to us.

We would suggest that the responsible officials of the Council should give serious consideration to the desirability in future of acting strictly in compliance with the correct practice. Apart from the matter to which we have already referred, there is the consideration that a departure from good practice opens the door to malpractice.

122. There is a general observation that we venture to make. We would suggest that it might be in the interests of the Council if a closer liaison could be effected between the Tender Board as such and the Committee subsequently responsible to the Council for the performance of any particular contract, so that the appropriate Committee would have a direct interest and participation in the selection of the contractor. For example, it might be a desirable innovation that one or two members of the appropriate Committee should, in practice, be invited to sit in with the Tender Board and have their views recorded on the selection of the contractor for the implementation of whose contract their Committee will be responsible.

BRIBERY IN GENERAL

123. Only in one case was an admission that money presents had been accepted—namely, the acceptance of three presents of £25 by Mr. Keogh from "old Singh" of Ismail & Company—not refuted by the alleged donors (A.10.28.2.56). Having regard, however, to the many allegations made of bribes having been offered, accepted or refused, and having regard to the fact that only in a very few instances, for example, the allegations of bribery made against Mr. Dedan Githegi by two or three traders, was there any evidence of enmity between the parties or other improper motive which might have induced the accusations, we have reluctantly come to the conclusion that the practice of City Council servants demanding or accepting, and of contractors offering, bribes—or, if you prefer, money presents—for services rendered or to be rendered, is by no means uncommon (A.24 to 28 13.3.56). Nor do we consider the alleged scale of bribes or money presents insignificant. Even one present, let alone three presents of £25 to a junior married European Council servant about to take a holiday cannot be regarded as inconsiderable, and the amounts alleged to have been

demanded from Africans for the necessary recommendation for securing a hawker's trading licence were definitely high having regard to the general financial standing of the African applicants.

We were further greatly surprised that a senior officer of the Council like Mr. Bridger, when attempts at bribery were on more than one occasion reported to him, apparently did not appreciate the seriousness of the situation disclosed, and by failing to take firm steps to stop such attempts left his staff in the position of being repeatedly pestered to accept bribes (B.3 1-3-56, D.2 1-3-56).

While, looking at these matters realistically, we fully appreciate the practical difficulties in the way of any local authority in checking these practices, we would point out that a position of affairs such as has been disclosed to us again and again throughout this inquiry, by which an incompetent contractor is selected to perform contracts which are inadequately supervised, must inevitably create a situation in which corruption is most likely to flourish.

124. With regard to the practice which also appears to be general of accepting presents from contractors at Christmas time (a practice which is no doubt unobjectionable when the donor is a trader who has enjoyed the custom of a person in his private capacity and hopes to secure his patronage in the coming year), we consider that in no circumstances can it be proper for a servant of the Council to accept even a *kikapu* of fruit and liquor from a contractor who is carrying out work for the Council, for the due performance of which the Council's servant is answerable.

We trust that the City Council will give these matters the most urgent and thorough consideration. We were informed that instructions were issued shortly before Christmas, 1955 (C.14 27-2-56) that no such presents were to be accepted, but suggest that a clear direction on this subject should be incorporated in the Council's Code of Regulations for their staff, with penalties for non-observance.

SPARE-TIME EMPLOYMENT

125. A matter of considerable importance arose before us in the course of the evidence relating to the attitude that should be adopted towards officials of the Council who undertake private work for payment ostensibly outside official working hours. This matter is covered by a regulation of the City Council's Code of Working Regulations which reads as follows (Exhibit 206):—

“An officer's remuneration is fixed on the assumption that his whole time is at the disposal of the Council, and he is prohibited from engaging in trade or employing himself in any other occupation which the Council may consider and determine to be detrimental to its interests.”

We understand that a certain interpretation has been put upon this clause by the Town Clerk—presumably upon advice. In our view, it would not be correct for us to submit an interpretation of this clause, but we propose to consider the very important question, having regard to the recent history of the Council's affairs, as to whether and if so under what conditions Council employees should be permitted to do such private work.

The consideration of this matter is particularly pertinent in the light of the background disclosed in evidence. Leaving aside all questions as to where the blame in any particular matter rests, we have the considered explanation of the City Engineer that one of the basic causes for the deplorable series of events upon which we have had to comment was that the staff was insufficient in numbers and dangerously over-committed. That being so—and we see no reason to doubt Mr. Bridger's conclusion—it seemed to us to be particularly disquieting that the evidence should disclose that several of the senior European employees were engaged in private professional work. Moreover, Mr. Grieve told us (B.22 20-3-56)

that "90 per cent of Asian staff" did private work, by which of course we only assume that he meant that the great majority of them did so.

126. We are satisfied that it is not the general practice in other countries for employees either of government or of municipal authorities to be permitted to indulge in paid private work. Moreover in Kenya there is a specific prohibition so far as Government employees are concerned.

The reason for the prohibition is clear. If it were permitted for an official to do private paid work, the practice would inevitably be open to abuse, not only because an officer who is performing paid private work apart from his official duties will probably in practice be found to have less energy to devote to his official tasks, but also because it is very difficult, if not impossible, in practice to determine whether or not an officer is in fact doing his paid private work during official hours. We would add that it would seem to be particularly objectionable when an official, whether in government or municipal employ, engages in the same class of activity as is performed by him in his official professional capacity. Further, there is of course always the possibility of a conflict of interest arising.

127. Mr. Somen in substance agreed with the principle we have set out, but added that in practice it was difficult to prevent officials doing paid private work (C.32 22-3-56). Mr. Alexander went further than this and in his evidence before us defended the practice not only upon the ground that it was difficult to stop but that it was unobjectionable in itself (C.18 26-3-56). We disagree with Mr. Alexander that the practice is unobjectionable, and doubt whether he himself would persist in his view upon reflection.

128. We are alive to the practical difficulty of enforcing such a prohibition, but we would earnestly suggest for the consideration of Council that a serious attempt should be made to do so and that, should it be considered necessary, the appropriate regulation should be amended to that end. We would further suggest that there should be an absolute and specific prohibition against the employment for reward by Councillors on their private avocations of any member of the professional or technical staff of the Council.

We would repeat that a dispassionate review of the circumstances attending the various irregularities disclosed in evidence would seem to raise an inference that failure to follow the practice which we have suggested may well have been a contributory factor.

GENERAL CONCLUSION

129. Having regard to the whole picture revealed to us, we consider that it is our duty to apportion the principal responsibility for the failures and irregularities disclosed, which have resulted in very heavy financial loss to the ratepayers of this City, to the admitted failure of the responsible officials of Council to make representations or to give warnings to the Mayor or Deputy Mayor, or indeed to any Councillor, that the number of projects which had been undertaken or were proposed to be undertaken by the Council were quite beyond the capacity of the available professional staff. It is true that Mr. Roberts, a member of the City Engineer's staff, said:—

"Q. In view of that statement and the amount of money involved . . ." —[the reference is to the matter of the Makardara drains]—"has it ever been placed on record anywhere that the engineers concerned felt they were unable to supervise these jobs?"

A. I have raised the issue on very many occasions (i.e. departmentally) verbally and in writing, and to the extent of asking to be relieved of my appointment. I believe also Mr. Charnley raised the issue on a number of

occasions with the City Engineer that he was quite incapable of coping with the column of work which was thrust upon him" (E.18 10-2-55).

Q. Has any suggestion of such a state of affairs, i.e. shortage of staff, been suggested before to your knowledge?

A. I believe in November, 1954, Sir, a report from the City Engineer went to the Works Committee on shortage of staff in view of very pressing representations I made to the City Engineer at that time.

Q. But that is the only one you remember?

A. I believe that is the only one which went to the City Council with the exception of the one which went when I was appointed Chief Assistant in January, 1954. On that occasion, the City Engineer set out that the work of the department was too great to be dealt with by the Assistant Engineer, Sewers, and Assistant Engineer, Roads, and proposed that a new appointment of Chief Assistant Engineer should be made with subsidiary appointments.

Q. That was merely a suggestion of increase in staff?

A. Yes, Sir, an increase in staff so that the work could be shared between three instead of two.

MR. CUSACK: As I said, I would just like to emphasize that point. To my mind, there is a difference between having more staff so that everybody can work a little less hard and having insufficient staff to control the public money that is expended.

A. Yes."

But no further reference to this November, 1954, report was made to us in evidence from any quarter, and even if it did go forward, it no doubt made little impression, because it was presumably regarded as just another report concerning increase in cadre, which does not necessarily carry the implication that the existing staff is dangerously over-committed.

130. We have, further, the unusual and unhappy circumstance that there were simultaneously in the employ of the Council on the City Engineer's staff three persons—Mr. Whipp, Mr. Wallace and (for a time) Mr. Keogh—who did not hesitate to enter upon a course of deliberate fraud at the expense of the ratepayers—a course which, as we have already pointed out, was facilitated by the absence of effective supervision. But making allowance for all these factors, there remains the consideration that the mere fact of this vital non-disclosure of the serious over-commitment of the professional staff to the elected representatives of the ratepayers would seem to lead to the conclusion that there must have been a lack of liaison or lack of sympathy between the officials and the elected representatives which has worked to the detriment of the City. For this state of affairs we have reluctantly come to the conclusion that a share of the responsibility must be borne by the Town Clerk, Mr. Riseborough. By virtue of his office Mr. Riseborough would seem to be eminently the appropriate person to ensure that proper liaison exists between the various Heads of Department and also between the Officials and the Members of the Council.

Moreover, Mr. Bridger, as he himself admits must be held largely to blame for the over-all breakdown in the administration of the City Engineers' Department, which has resulted in the deplorable irregularities disclosed to us.

Apart from all these considerations, weight should, we think, be given to the reflection that, leaving aside the specific deceptions practised by Mr. Whipp and Mr. Wallace (which we concede could not at the time reasonably have come to

the knowledge of the Council as a body), a measure of responsibility must be attributed, having regard to the magnitude of the irregularities disclosed, to the Councillors for not having known or at least suspected that all was not well. After all ratepayers are surely entitled to assume that their elected representatives, to whom is entrusted the expenditure of considerable sums of public money, should take the necessary steps to apprise themselves of the true state of affairs, to satisfy themselves that there is a proper control of expenditure, and to ensure that the ratepayers' money is not wasted.

131. We may perhaps be permitted to express the hope that the final outcome of the various unhappy disclosures made to us may be the creation of a more harmonious and efficient administration of the affairs of the City.

132. In conclusion, we would wish to express our appreciation to Mr. Brookes and Mr. Twelftree, of the Attorney General's Department, for having so ably performed the invidious and exacting task of adducing the evidence before us; to the Members of the Bar for their courteous and patient co-operation; and also to the Officers of the Criminal Investigation Department for the laborious investigations which they had necessarily to undertake.

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

ALAN ROSE, *Chairman.*

PERCY PARR, *Member.*

J. R. CUSAK, *Member.*

T. CLINTON WELLS, *Secretary.*

London, 23rd May, 1956

APPENDIX I

Government Notice No. 1693

THE COMMISSIONS OF INQUIRY ORDINANCE

(Cap. 40)

COMMISSION

WHEREAS it is provided by the Commissions of Inquiry Ordinance that it shall be lawful for the Governor whenever he shall deem it advisable to issue a Commission appointing one or more Commissioners to inquire *inter alia* into the conduct or management of any public or local institution or into any matter in which an inquiry would, in the opinion of the Governor, be for the public welfare:

AND WHEREAS I deem it advisable that an inquiry should be made into the matters hereinafter set out:

NOW THEREFORE I, Evelyn Baring, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Knight Commander of the Royal Victorian Order, Governor and Commander-in-Chief of the Colony and Protectorate of Kenya, in exercise of the powers conferred upon me by the aforesaid Ordinance and of all other powers hereunto me enabling, do hereby appoint:—

SIR ALAN ROSE, K.C.M.G., Q.C., M.A., LL.B. (*Chairman*);

PERCY PARR, ESQUIRE, O.B.E., B.SC. TECH. HONS., M.I.C.E., M.I.MUN.E., M.T.P.I. (*Member*);

J. RALPH CUSACK, ESQUIRE (*Member*);

to be a Commission and do hereby authorize the said Commission—

- (a) to inquire into, consider and report upon alleged corruption or other malpractices in relation to the affairs of the Nairobi City Council;
- (b) for the purpose aforesaid, to inquire into any allegations or indications that any past or present members, officers or servants of the Council, have sought or received or have been offered or promised bribes, illegal gratifications, secret commissions or other corrupt or improper payments, gifts or considerations, or have exercised improper influence or abused or exploited their offices or status for the personal gain or advantage of themselves or for the personal gain, loss, advantage or disadvantage of any other person; and
- (c) if any corruption or other malpractices have taken place to report in what circumstances the same took place and what persons were involved.

And I direct that—

- (1) the Commission shall commence its inquiry as soon as the members thereof shall be assembled;
- (2) the Commission shall normally hold its sittings in the Law Courts Building, Nairobi, but shall have power in its discretion to adjourn to any other suitable place to hear evidence or for any other purpose connected with its inquiry;
- (3) the inquiry shall be held in public: provided that—

The Commissioners shall nevertheless be entitled at any time and for sons for the preservation of order, for the due conduct of the inquiry, or such period as they may see fit to exclude any particular person or person for any other reason;

- (4) Sir Alan Rose shall be the Chairman of the Commission and any two of the aforesaid Commissioners shall form a quorum;
- (5) The Commissioner of Police shall detail police officers to attend upon the Commission for the purpose of preserving order during the proceedings, to serve summonses on witnesses or to perform such ministerial duties as the Commissioners shall direct;
- (6) T. Clinton Wells, Esquire, O.B.E., M.C., shall be the Secretary of the Commission and shall perform the functions and duties referred to in section 6 of the aforesaid Ordinance; and in case of necessity I hereby authorize the Commissioners to appoint any suitable person to act temporarily as Secretary to the Commission;
- (7) The Commission shall in its discretion have power to order that shorthand notes or palantype recordings be made of its proceedings, a transcript whereof shall constitute the official record of its proceedings.

Given under my hand and the Public Seal of the Colony this 8th day of December, 1955.

E. BARING,
Governor.

APPENDIX II
**ADVOCATES WHO APPEARED BEFORE THE COMMISSION
 OF INQUIRY**

(*Nairobi City Council*)

<i>Name of Advocate</i>	<i>Instructed by</i>
Mr. J. F. Bowyer, of Shapley, Barrett, Allin and Company.	Mr. T. H. Stone.
Mr. K. C. Brookes (Crown Counsel), <i>amicus curiæ</i> .	The Attorney General.
Mr. Saeed Cockar, of Cockar and Cockar.	Mr. Ata Ul Haq and the Colonial Construction Company.
Mr. Byron Georgiadis	European Local Government Servants' Association.
Mr. J. A. Mackie-Robertson, of Kaplan and Stratton.	City Council of Nairobi.
Mr. Mervyn Morgan	Messrs. Howard Humphreys and Sons.
Mr. F. P. Nowrojee	Alderman Mohan Singh.
Mr. D. P. R. O'Bierne	Mr. Dedan Githegi.
Mr. W. J. Parry, of Parry and Nicoll	Mr. Tanner, Colonel Newman and Messrs. W. and C. French and Company.
Mr. B. J. Robson (later Mr. J. P. G. Harris), of Robson and O'Donovan.	Messrs. Smith Mackenzie and Com- pany, Mr. Dobbs-Johnson and the manufacturers in Belgium of Sealithor Cement.
Mr. D. F. Shaylor, of Buckley, Hollister and Company.	Alderman R. S. Alexander.
Mr. Chanan Singh, of Chanan Singh and Handa.	Messrs. M. R. Ghai and Sons.
Mr. G. A. Twelftree (Crown Counsel), <i>amicus curiæ</i> .	The Attorney General.
Mr. J. P. Vohra, of Vohra and Vohra	Mr. Butt.
Mr. R. D. C. Wilcock, of Archer and Wilcock.	Alderman Somen and Hutchings Biemer and Company.

APPENDIX III

ALPHABETICAL LIST OF WITNESSES AND THE DATES UPON WHICH
THEY GAVE EVIDENCE

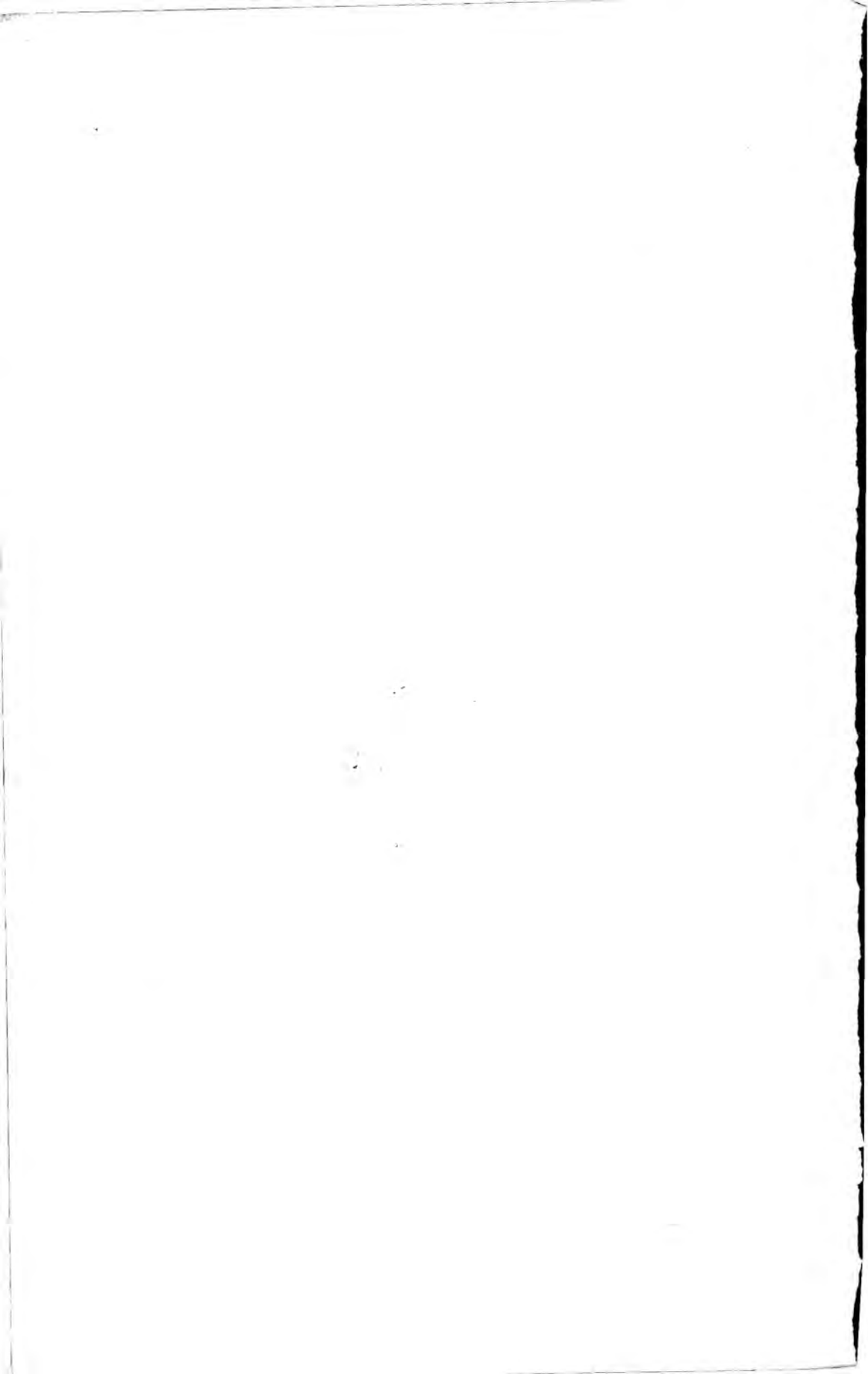
Mr. Robert Ballantyne Adamson, Analyst, Public Works Department	29-2-56
Alderman Reginald Stanley Alexander	26-3-56
Alice Jesse w/o Kiba	22-2-56
Mr. John Harry Baker, Senior Superintendent in the Criminal Investigation Department	23-3-56
Mr. Percy James Boothway, Site Accountant for the Sasumua Dam	1-2-56
Mr. Henry Richie Bridger, City Engineer (1946-1955)	9-3-56
	13-3-56
	14-3-56
	15-3-56
	16-3-56
Mr. Adrian Arthur Noel Burton, Market Master	24-2-56
Mr. Aslam Butt, Clerk in Mincing Lane Market	23-3-56
Mr. Chanan Singh, Contractor	5-1-56
	6-1-56
	9-1-56
	10-1-56
Mr. John Alexander Couldrey, Barrister-at-Law	19-1-56
	20-1-56
Mr. Kerin Francis Graig-McFeely, Assistant Architect, Nairobi City Council	3-1-56
	4-1-56
	29-2-56
	5-3-56
Mr. Khandubhai Delpatram Darji, Smith Mackenzie & Co., Accounts Department	23-1-56
Mr. David Mathui, Draughtsman	11-1-56
Mr. Hugh Hume Dixon, Partner, Howard Humphreys & Sons, Consulting Engineers	5-3-56
	6-3-56
	7-3-56
	8-3-56
	9-3-56
	15-3-56
Mr. Thomas Alan Dobbs Johnson, of Smith Mackenzie & Co., some-time Deputy Mayor of Nairobi	24-1-56
	25-1-56
	13-2-56
	14-2-56
Mr. David Cuff Doig, Civil Engineer	19-3-56
	20-3-56
Mr. Duncan Kinuthia s/o Moria, Vegetable Seller	25-2-56
Mr. George Adam Edington, Resident Engineer, Ruiru and Sasumua Dams	24-1-56
	1-2-56
	2-2-56
	7-2-56

Mr. Ezekiel Mudame s/o Paul, Employee of the African Affairs Department of the City Council	13-3-56
Mr. Norman Fallon, Chief Accountant, City Council	22-2-56 27-2-56 9-3-56
Mr. Juan Farrant, Managing Director of Atlas Machinery Supplies (Africa), Ltd.	5-3-56
Florence w/o Kiguru, Stall-holder in Market	23-2-56
Mr. Madan Lal Ghai, Director of M. R. Ghai & Sons, Contractors	19-3-56 22-3-56 26-3-56
Mr. Dedan Ngaruiya s/o Githegi, Assistant African Affairs Officer, Nairobi City Council	12-3-56 13-3-56
Mr. Wilfred Glover, Clerk of Works	27-2-56
Mr. John Robert Gorton, Internal Auditor, Nairobi City Council ..	12-1-56 19-1-56 26-1-56 5-3-56
Mr. George Graham Grieve, Consulting Engineer, City Councillor, Deputy Mayor (1948-1952)	20-3-56 21-3-56
Mr. Harman Singh, Contractor,	27-2-56
Mr. Frederick Charles Hawke, Officer in the Kenya Treasury	23-1-56
Mr. William Macdonald Peter Heath-Saunders, District Officer ..	23-2-56 24-2-56
Mr. Horace Stanley Hex, Secretary, Upper Nairobi Township & Estate Company	20-2-56 2-3-56
Mr. Geoffrey Harvey Howorth, formerly Manager of Pitt-Moore Estates, Kiambu	5-3-56
Mr. Jidlaph Kibuga s/o Mugei, Shop Assistant	22-2-56 12-3-56
Mr. Joseph s/o Omira, Wholesale Vegetable Seller	24-2-56
Mr. Kamau Samuel s/o Mjuguna	21-2-56
Mr. Arthur William Kent, City Treasurer	19-12-55 20-1-56 23-1-56 24-1-56 31-1-56 1-2-56 9-2-56 14-2-56 2-3-56 23-3-56 25-3-56 26-3-56 27-3-56
Mr. Patrick James Keogh, Mains Inspector	18-1-56 26-1-56 28-2-56

Mr. Raymond James Kerswell, Inspector, Criminal Investigation Department	11-1-56
Mr. Andrew Kibba s/o Kimau, Partner in a Bar known as "African Corner."	13-3-56
Mr. Kori s/o Kamau	22-2-56
Mr. John Littleton, Assistant Superintendent of Police attached to the Criminal Investigation Department	27-2-56 28-2-56 5-3-56
The Hon. Chunilal Madan, M.L.C., Advocate and Parliamentary Secretary for Commerce and Industry	16-3-56
Mr. Samuel McConnell, Consulting Engineer	15-2-56 21-3-56
Mr. Ernest George Mayor, Assistant Architect, Nairobi City Council	10-1-56
Mrs. Marcia Yvonne Millner, Officer in charge of Passbook Control	24-2-56
Alderman Mohan Singh	9-3-56
Chief Ndiranu Morris, Bahati Location, Nairobi	29-2-56
Mr. John Bridger Mortimer, Assistant Licensing Officer, Nairobi City Council	22-2-56 23-2-56
Mr. Ronald Frederick Mould, Acting Architect, African Housing, Nairobi City Council	19-12-55 20-12-55 21-12-55 22-12-55 28-12-55 29-12-55 30-12-55 3-1-56 16-1-56
Mr. Mukami s/o Kimani	22-2-56 12-3-56
Mr. Eluid Murangi s/o Gatamba, Clerk to Market Master	23-2-56
Mrs. Marjorie Needham-Clark, Nairobi City Councillor	10-2-56
Colonel Augustus Charles Newman, Director of W. & C. French, Ltd.	14-2-56
Mr. Nganga s/o Karanja, Vegetable Hawker	21-2-56
Mr. Nyaga s/o Ruanja, Tea Hawker	22-2-56 12-3-56
Mr. John Organ, Chief Inspector, Criminal Investigation Department	13-3-56
Mr. Christopher O'Toole, Managing Director of the Car & General Equipment Company	1-3-56
Mr. Gopal Das Pall, Estate Agent	28-2-56
Mr. Frederick Archibald Passells, City African Affairs Officer	13-3-56
Mr. Chimanbhai Motibhai Patel, Financier	11-1-56
Mr. Gordon Harry Malcolm Perrin, Fire Department	5-3-56
Mrs. Eileen Mervyn Raynor, Deputy Mayor of Nairobi	10-2-56
Mr. Glyn Richard, Chief Quantity Surveyor, Public Works Department	25-1-56 2-2-56

Mr. John Riseborough, Town Clerk	19-12-55 8-2-56 15-2-56
Mr. Roy Allenby Roberts, Chief Assistant Engineer in charge of Roads and Sewers, Nairobi City Council	10-2-56 15-2-56 16-2-56 1-3-56
Mr. Barney Rosenberg, Secretary to Hutchings Biemer & Co.	16-1-56 17-1-56
Mr. James Ross-Whyte, Building Works Superintendent, Nairobi City Council	11-1-56
Mr. Arthur Basil Salmon, City Engineer	1-3-56
Mr. Richard William Saunders, Deputy City Engineer	17-1-56 18-1-56 23-1-56 25-1-56 26-1-56 27-1-56 30-1-56 2-2-56 16-2-56 20-2-56 28-2-56 23-3-56
Mr. Leonard Ellson Frank Schwartz, Superintendent of Workshops, Public Works Department	13-1-56 12-3-56
Mr. C. Mohamed Sharif, Partner in Ismail & Co., Contractors	25-1-56 31-1-56
Mr. John Andrew Shiel, Assistant Building Works Superintendent, Nairobi City Council	4-1-56
Mr. James Martin Silvester, sometime Passbook Control Officer at Pumwani	24-2-56
The Hon. Humphrey Slade, M.L.C., Barrister-at-Law	21-3-56
Mr. James Henry Evans Smart, Mayor's Secretary and Public Relations Officer to the City Council	27-3-56
Mr. Alexander Smith, Highways Superintendent, Nairobi City Council	16-2-56
Alderman Israel Somen, Mayor of Nairobi	21-3-56 22-3-56
Mr. William Gray Nisbet Stirling, Chartered Civil Engineer	20-2-56
Mr. Thomas Henry Stone, late Clerk of Works	12-1-56 13-1-56 16-1-56
Mr. William Arnold Thompson, Assistant Manager of the Horticultural Co-operative Union	23-2-56
Mr. Hugh Thorpe, Chief Storekeeper, Municipal Stores	18-1-56
Alderman Charles Udall, Chairman of Tender Board	2-3-56
Wangondo w/o Chege	21-2-56
Warima w/o Mitambu	21-2-56

Mr. Harold Whipp, late Water Engineer	19-1-56
	20-1-56
	27-1-56
	30-1-56
Mr. John Telfer Williamson, Deputy City Treasurer	20-2-56
Mr. Wohomi s/o Musami, Wholesale Vegetable Seller	23-2-56
Sir Richard Woodley, Alderman, Nairobi City Council	19-3-56



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