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COLONY AND PROTECTORATE OF KENYA



LEGISLATIVE COUNCIL
DEBATES, 1930

VOLUME II.

NAIROBI:
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List of Members of Legislative Council, 10th July, 1930.

President:

HIS EXCELLENCY SIR EDWARD WILLIAM MACLEAY GRIGG, K.C.M.G.,
K.C.V.O., D.S.O., M.C. (GOVERNOR).

Ex officio Members:

COLONIAL SECRETARY (HON. H. MONCK-MASON MOORE, C.M.G.).
ATTORNEY GENERAL (HON. A. D. A. MACGREGOR, K.C.).
TREASURER (HON. H. H. RUSHTON).
CHIEF NATIVE COMMISSIONER (HON. G. V. MAXWELL).
COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT
(HON. H. T. MARTIN, C.B.E.).
DIRECTOR OF MEDICAL AND SANITARY SERVICES (HON. DR. J. L. GILKS)
DIRECTOR OF AGRICULTURE (HON. A. HOLM, C.B.E.).
DIRECTOR OF EDUCATION (HON. H. S. SCOTT).
ACTING GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND
HARBOURS (HON. H. E. GOODSHIP, C.B.E.).
ACTING DIRECTOR OF PUBLIC WORKS (HON. W. M. LYNDE).
ACTING COMMISSIONER OF CUSTOMS (HON. E. G. BALE).

Nominated Official Members:

HON. T. FITZGERALD (Postmaster-General).
HON. SIR ALI BIN SALIM, K.B.E., C.M.G. (Liwali for the Coast).
HON. C. M. DOBBS, O.B.E. (Senior Commissioner, Nyanza).
HON. H. R. MONTGOMERY (Senior Commissioner, Coast).
COLONEL THE HON. R. WILKINSON, D.S.O. (Officer Commanding
Troops).
HON. E. B. HORNE, O.B.E. (Senior Commissioner, Kikuyu).
MAJOR THE HON. H. H. BRASSEY-EDWARDS (Chief Veterinary Officer).
HON. W. F. G. CAMPBELL (Senior Commissioner, Ukamba).
HON. C. G. HOWELL (Acting Solicitor-General).

European Elected Members:

HON. CONWAY HARVEY (Lake).
HON. T. J. O'SHEA (Plateau South).
LIEUT.-COLONEL THE HON. LORD FRANCIS SCOTT, D.S.O. (Ukamba).
CAPTAIN THE HON. E. M. V. KENEALY (Kenya).
MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE, D.S.O. (Coast).
LIEUT.-COLONEL THE HON. J. G. KIRKWOOD, C.M.G., D.S.O. (Plateau
North).
HON. E. POWYS COBB (Rift Valley).
LIEUT.-COLONEL THE HON. C. G. DURHAM, D.S.O., J.P. (Kikuyu).
COLONEL THE HON. W. K. TUCKER (Acting); (Nairobi North).
HON. W. C. MITCHELL (Acting); (Nairobi South).
[VACANT (Mombasa).]

Indian Elected Member:

HON. A. H. MALIK.

Nominated Indian Members:

[VACANT.]

Arab Elected Member:

HON. HAMED MOHAMED DIN ISSA.

Nominated Member Representing the Interests of the African Community:
REV. CANON THE HON. HARRY LEAKEY.

Clerk to the Legislative Council:

MR. G. R. SANDFORD, O.B.E.

ABSENTEES FROM LEGISLATIVE COUNCIL MEETINGS.

10th July, 1930.

HON. E. POWYS COBB.
HON. HAMED MOHAMED BIN ISSA.

11th July, 1930.

HON. DIRECTOR OF PUBLIC WORKS.
HON. HAMED MOHAMED BIN ISSA.

14th July, 1930.

HON. TREASURER.
HON. DIRECTOR OF EDUCATION.
HON. W. C. MITCHELL.
HON. HAMED MOHAMED BIN ISSA.

16th July, 1930.

HON. ATTORNEY GENERAL.
HON. TREASURER.
HON. T. J. O'SHEA.
HON. HAMED MOHAMED BIN ISSA.

17th July, 1930.

HON. TREASURER.
HON. HAMED MOHAMED BIN ISSA.

18th July, 1930.

HON. TREASURER.
HON. HAMED MOHAMED BIN ISSA.

21st July, 1930.

HON. TREASURER.
HON. ACTING GENERAL MANAGER, KENYA AND UGANDA RAILWAYS
AND HARBOURS.
HON. T. J. O'SHEA.
HON. W. C. MITCHELL.
HON. HAMED MOHAMED BIN ISSA.

22nd July, 1930.

HON. TREASURER.
HON. ACTING GENERAL MANAGER, KENYA AND UGANDA RAILWAYS
AND HARBOURS.
HON. T. J. O'SHEA.
HON. W. C. MITCHELL.
HON. HAMED MOHAMED BIN ISSA.

23rd July, 1930.

HON. TREASURER.
HON. DIRECTOR OF AGRICULTURE.
HON. ACTING GENERAL MANAGER, KENYA AND UGANDA RAILWAYS
AND HARBOURS.
HON. T. FITZGERALD, O.B.E.
HON. C. M. DOBBS, O.B.E.
COL. THE HON. R. WILKINSON, D.S.O.
HON. W. F. G. CAMPBELL.
HON. T. J. O'SHEA.
COL. THE HON. W. K. TUCKER.
HON. W. C. MITCHELL.
HON. HAMED MOHAMED BIN ISSA.

ABSENTEES FROM LEGISLATIVE COUNCIL MEETINGS—(Contd.).

28th August, 1930.

HON. T. FITZGERALD, O.B.E.
HON. SIR ALI BIN SALIM, K.B.E., C.M.G.
HON. H. R. MONTGOMERY.
COL. THE HON. R. WILKINSON, D.S.O.
HON. H. H. BRASSEY-EDWARDS.
HON. T. J. O'SHEA.
LT.-COL. THE HON. LORD FRANCIS SCOTT, D.S.O.
HON. HAMED MOHAMED BIN ISSA.

30th August, 1930.

HON. T. FITZGERALD, O.B.E.
HON. SIR ALI BIN SALIM, K.B.E., C.M.G.
HON. H. R. MONTGOMERY.
COL. THE HON. R. WILKINSON, D.S.O.
HON. E. B. HORNE, O.B.E.
HON. H. H. BRASSEY-EDWARDS.
HON. T. J. O'SHEA.
LT.-COL. THE HON. LORD FRANCIS SCOTT, D.S.O.
HON. HAMED MOHAMED BIN ISSA.

22nd October, 1930.

HON. COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND
SETTLEMENT.
HON. DIRECTOR OF PUBLIC WORKS.
HON. SIR ALI BIN SALIM, K.B.E., C.M.G.
HON. H. R. MONTGOMERY.
HON. MEMBER FOR THE Rift VALLEY.
HON. HAMED MOHAMED BIN ISSA.

30th October, 1930.

HON. ATTORNEY GENERAL.
HON. COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND
SETTLEMENT.
HON. SIR ALI BIN SALIM, K.B.E., C.M.G.
HON. HAMED MOHAMED BIN ISSA.

31st October, 1930.

HON. ATTORNEY GENERAL.
HON. COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND
SETTLEMENT.
HON. GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND
HARBOURS.
HON. DIRECTOR OF PUBLIC WORKS.
HON. SIR ALI BIN SALIM, K.B.E., C.M.G.
HON. E. B. HORNE, O.B.E.
HON. A. C. HOBY.
HON. HAMED MOHAMED BIN ISSA.

1st November, 1930.

HON. ATTORNEY GENERAL.
HON. COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND
SETTLEMENT.
HON. DIRECTOR OF AGRICULTURE.
HON. GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND
HARBOURS.
HON. DIRECTOR OF PUBLIC WORKS.
HON. SIR ALI BIN SALIM, K.B.E., C.M.G.
HON. E. B. HORNE, O.B.E.
LT.-COL. THE HON. O. F. WATKINS, C.B.E., D.S.O.
LT.-COL. THE HON. LORD FRANCIS SCOTT, D.S.O.

ABSENTEES FROM LEGISLATIVE COUNCIL MEETINGS—(Contd.).

1st November, 1930.—Contd.

HON. A. C. HOEY.
HON. F. J. COULDREY.
HON. HAMED MOHAMED BIN ISSA.

19th November, 1930.

HON. GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS.
COL. THE HON. R. WILKINSON, D.S.O.
REV. CANON THE HON. H. LEAKEY.
HON. HAMED MOHAMED BIN ISSA.

20th November, 1930.

COL. THE HON. R. WILKINSON, D.S.O.
REV. CANON THE HON. H. LEAKEY.
HON. HAMED MOHAMED BIN ISSA.

21st November, 1930.

HON. DIRECTOR OF PUBLIC WORKS.
HON. T. FITZGERALD, O.B.E.
COL. THE HON. R. WILKINSON, D.S.O.
HON. CONWAY HARVEY.
REV. CANON THE HON. H. LEAKEY.
HON. HAMED MOHAMED BIN ISSA.

22nd November, 1930.

HON. TREASURER.
HON. DIRECTOR OF MEDICAL AND SANITARY SERVICES.
HON. DIRECTOR OF PUBLIC WORKS.
HON. ACTING COMMISSIONER OF CUSTOMS.
HON. T. FITZGERALD, O.B.E.
COL. THE HON. R. WILKINSON, D.S.O.
HON. A. C. HOEY.
HON. F. J. COULDREY.
REV. CANON THE HON. H. LEAKEY.
HON. HAMED MOHAMED BIN ISSA.

26th November, 1930.

COL. THE HON. R. WILKINSON, D.S.O.
REV. CANON THE HON. H. LEAKEY.
HON. HAMED MOHAMED BIN ISSA.

27th November, 1930.

HON. DIRECTOR OF EDUCATION.
COL. THE HON. R. WILKINSON, D.S.O.
REV. CANON THE HON. H. LEAKEY.
HON. HAMED MOHAMED BIN ISSA.

28th November, 1930.

HON. SIR ALI BIN SALIM, K.B.E., C.M.G.
REV. CANON THE HON. H. LEAKEY.
HON. HAMED MOHAMED BIN ISSA.

29th November, 1930.

HON. CHIEF NATIVE COMMISSIONER.
HON. SIR ALI BIN SALIM, K.B.E., C.M.G.
LT.-COL. THE HON. LORD FRANCIS SCOTT, D.S.O.
LT.-COL. THE HON. J. G. KIRKWOOD, C.M.G., D.S.O.
HON. F. A. BEMISTER.
HON. A. C. HOEY.
HON. F. J. COULDREY.
REV. CANON THE HON. H. LEAKEY.
HON. HAMED MOHAMED BIN ISSA.

ABSENTEES FROM LEGISLATIVE COUNCIL MEETINGS—(Contd.).

29th December, 1930.

HON. C. M. DOBBS, O.B.E.
HON. SIR ALI BIN SALIM, K.B.E., C.M.G.
LT.-COL. THE HON. J. G. KIRKWOOD, C.M.G., D.S.O.
HON. HAMED MOHAMED BIN ISSA.

30th December, 1930.

HON. SIR ALI BIN SALIM, K.B.E., C.M.G.
RT. HON. LORD DELAMERE, K.C.M.G.
LT.-COL. THE HON. J. G. KIRKWOOD, C.M.G., D.S.O.
HON. HAMED MOHAMED BIN ISSA.

7th January, 1930.

RT. HON. LORD DELAMERE, K.C.M.G.
LT.-COL. THE HON. J. G. KIRKWOOD, C.M.G. D.S.O.
HON. HAMED MOHAMED BIN ISSA.

8th January, 1931.

HON. GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS.
HON. E. B. HORNE, O.B.E.
LT.-COL. THE HON. J. G. KIRKWOOD, C.M.G., D.S.O.
HON. HAMED MOHAMED BIN ISSA.

17th January, 1931.

HON. ATTORNEY GENERAL.
HON. T. FITZGERALD, O.B.E.
HON. C. M. DOBBS, C.M.G., O.B.E.
HON. SIR ALI BIN SALIM, K.B.E., C.M.G.
HON. H. R. MONTGOMERY.
LT.-COL. THE HON. O. F. WATKINS, C.B.E., D.S.O.
HON. F. A. BEMISTER.
HON. HAMED MOHAMED BIN ISSA.



COLONY AND PROTECTORATE OF KENYA.

LEGISLATIVE COUNCIL DEBATES,
1930

SECOND SESSION.

THURSDAY, 10th JULY, 1930.

The Council assembled at 10 a.m. at Government House, Mombasa, on Thursday, 10th July, 1930, His Excellency the Governor (LIEUTENANT COLONEL SIR EDWARD WILLIAM MACLEAY GRIGG, K.C.M.G., K.C.V.O., D.S.O., M.C.) presiding.

His Excellency opened the Council with prayer.

The Proclamation summoning the Council was read.

ADMINISTRATION OF THE OATH.

The Oath of Allegiance was administered to :—

TEMPORARY NOMINATED OFFICIAL MEMBER.

CHARLES GOUGH HOWELL, Acting Solicitor General.

EUROPEAN ACTING MEMBER.

WILLIAM CHARLES MITCHELL, Acting Member for Nairobi South.

COMMUNICATION FROM THE CHAIR.

HONOURABLE MEMBERS OF COUNCIL,

We meet this morning, I fear, in circumstances of considerable doubt and depression. Since our last meeting, very few weeks ago, prices have fallen still further, and the depression in the Colony has increased. The plight of the grain-growers is, I think, the hardest, but all industries, except perhaps dairying, are feeling the effect of low prices and other conditions very seriously. There is not much sign of improvement yet, and I am afraid that many settlers, with whom I have the deepest sympathy, will have a hard struggle to pull through.

At the same time, the proposals of the Imperial Government presented to the House of Commons and the House of Lords as the Command Paper on Closer Union have come indubitably as a severe shock to the settler community and have added very considerably to the cloud of anxiety which is hanging over the Colony. Protests against these proposals have been raining upon Government from all quarters ever since they were first made public. Combined with hard times they have evidently made large bodies of opinion in this Colony feel that the future of white settlement is in jeopardy.

I can understand the deep prevailing anxiety both on the economic and on the political side; but on both counts there is, I think, a good deal to be said in modification of this anxiety, and with that object I will ask you to follow me this morning before we proceed to our other business, in a brief survey of the Colony's present position. I will deal first with the economic aspect of our troubles and will come to the political aspect afterwards.

We are all agreed, I think, after some years of discussion which were needed to sift and elucidate our ideas, that our welfare depends upon a just and steady prosecution of the Dual Policy. That policy was first defined and advocated by Sir Robert Gordon and then the Parliamentary Commissioner of Enquiry into East Africa in 1924 under the chairmanship of Mr. Curzon. It was accepted and defined still further by the first Conference of East African Governors which met in January, 1926; and it was finally defined in the White Paper on East Africa issued by the Imperial Government in 1927 as "the complementary development of native and non-native communities." How has that complementary development fared in Kenya since 1927?

I will deal first with the native branch of the Dual Policy, since the native population were the first to suffer seriously from the recent succession of bad seasons.

Honourable Members are aware that a combination of prolonged drought and repeated visitations from locusts produced famine conditions in some parts of the native reserves last year. Combating these conditions put a heavy strain on administrative officers and on the staff of the Agricultural Department, and involved a serious drain on our Surplus at an end—provided the existing crops are realised, and there seems to be every reason to believe now that they will be—without, so far as we can judge, seriously disheartening the tribes concerned in the task of improving agriculture

and increasing production. A salient example is the Embu District, where a good deal of extra cultivation was undertaken, and where most of it was lost. The agricultural officer for that district, in his report for 1929, says:—

"It is considered that steady progress has been maintained during the past year. The native has applied himself to cultivation with increased activity and his keenness is the more noticeable when it is remembered that much of his work has been lost owing to the ravages of locusts and the lack of rain. Far from becoming apathetic under repeated reverses, he has planted and uprooted his shambas, using irrigation during the dry season—wherever possible, and the crops standing at the end of the year are expected to give a record harvest."

A similar example of recuperation and of maintenance of confidence may be found in the Meru District, which suffered most heavily of all from famine conditions. Reporting on that district last year, the Provincial Commissioner, Mr. Horne, a nominated Member of Council who is present to-day, said:—

"Prior to the inception of the famine, and during the whole period of its continuation, the administrative staff, which was up to full strength, together with the agricultural officer, were engaged to the exclusion of other duties in measures to stave off the shortage. It is estimated that irrigation trenches totalling 250 miles in length were constructed during the period, which included a trench to provide adequate water for the Tharaka area."

The result of these activities may be seen in the report at the end of the year of the agricultural officer for Meru. He said:—

"It is felt that, although this has been a year of severe conditions, it has been one of considerable agricultural progress, especially in the direction of the establishment of better crops and of a greater interest in cultivation."

I have made a point of reading those quotations because it is I think important to realise the extent to which increasing native production is assisting the finances and increasing the resources of the Colony. There is no doubt whatever, to my mind, that through official encouragement and help native cultivation is improving rapidly, and I should like to congratulate the agricultural officers concerned, the native agricultural officers, and the administrative officers, whose help is absolutely necessary to the success of the technical services. It is

At the same time, the proposals of the Imperial Government presented to the House of Commons and the House of Lords in the Command Paper on Closer Union have come undoubtedly as a severe shock to the settler community and have added very considerably to the cloud of anxiety which is hanging over the Colony. Protests against those proposals have been raining upon Government from all quarters ever since they were first made public. Combined with hard times they have evidently made large bodies of opinion in this Colony feel that the future of white settlement is in jeopardy.

I can understand the deep prevailing anxiety both on the economic and on the political side; but on both counts there is, I think, a good deal to be said in modification of this anxiety, and with that object I will ask you to follow me this morning, before we proceed to our other business, in a brief review of the Colony's present position. I will deal first with the economic aspect of our troubles and will come to the political aspect afterwards.

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I will deal first with the native branch of the Dual Policy, since the native population were the first to suffer seriously from the recent succession of bad seasons.

Honourable Members are aware that a combination of prolonged drought and repeated visitations from locusts produced famine conditions in some parts of the native reserves last year. Combating these conditions put a heavy strain on administrative officers and on the staff of the Agricultural Department, and involved a serious drain on our Surplus Balance. I am glad to say that these conditions are now at an end—provided the existing crops are realised, and there seems to be every reason to believe now that they will be realised—without, so far as we can judge, seriously disheartening the tribes concerned in the task of improving agriculture

and increasing production. A salient example is the Embu District, where a good deal of extra cultivation was undertaken, and where most of it was lost. The agricultural officer for that district, in his report for 1929, says:—

"It is considered that steady progress has been maintained during the past year. The native has applied himself to cultivation with increased activity and his keenness is the more noticeable when it is remembered that much of his work has been lost owing to the ravages of locusts and the lack of rain. Far from becoming apathetic under repeated reverses, he has planted and replanted his shambas, using irrigation during the dry season wherever possible, and the crops standing at the end of the year are expected to give a record harvest."

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The result of these activities may be seen in the report at the end of the year of the agricultural officer for Meru. He said:—

"It is felt that, although this has been a year of severe conditions, it has been one of considerable agricultural progress, especially in the direction of the establishment of better crops and of a greater interest in cultivation."

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indeed a very welcome feature of the annual reports from district agricultural officers—I know of no exception—that they one and all render testimony of the effective and energetic assistance which they have received from administrative officers. In spite of that, natives of course are feeling the effect of low prices, and their purchasing power is reduced. This must be reflected in the revenue of the Colony, and I very much regret therefore that the large extension of services which I had counted on for 1931 in the native reserves will hardly be possible in the conditions in which we shall have to frame next year's Estimates.

But I wish to say this before I leave the question of the native reserves: that I am convinced, from what observation I have been able to give—and I have given the matter close observation—that what money is available in the near future should be devoted in the first instance to increasing the number of administrative officers rather than of technical officers. This means fewer changes from district to district; it means closer knowledge by administrative officers of the populations with which they have to deal; it means therefore more influence; and I believe that an increase in the number of administrative officers is one of the first necessities of good administration, sound development, and content in the reserves.

I come now to the settled areas. The picture in the settled areas is for the moment, I regret to say, less satisfactory. Apart from actual famine, to which, of course, natives only are exposed, bad seasons injure the white farming community more deeply than the native population. Whatever their crops may be, whatever the prices may be, however small the return for their labours, they still have to pay their rents, they still have to pay their interest charges, and they still have to pay their labour. As in the rest of the world, practically all our industries are very seriously affected by present conditions, though dairying, so far as I can judge, is an encouraging exception. The grain-growers, as I have already said, are the hardest hit; they have to face the worst fall in prices, and their margins are narrower. They have had great difficulty in drying their crops, and great difficulties in transport, and I cannot help remembering that in the necessary measures required for dealing with famine last year it was found desirable to curtail their profits by fixing prices.

So far as possible, Government has taken special measures in the last few weeks to assist the grain-growers. The emergency drying arrangements which were to be undertaken here, at the Coast, and at Kitale, are going on well, and I believe

that the plant at Kilindini is, on the whole, showing good results, and that it is dealing with a larger quantity of maize than had been originally supposed. The only difficulty is that it does not dry maize to the same extent as the original drying plant. I hope, however, that these emergency plants will be of real assistance in getting the maize crop out without further loss.

Another measure of assistance has been granted by the Port Advisory Board, and that is a four-fifths reduction of the storage charges for maize and wheat. When the period of storage was reduced two or three years ago it was, I think, understood that in case of emergency the concession then existing might be restored, and it was in view of this that the Port Advisory Board has made this very wise and welcome reduction. The Government on its side has provided for a four-fifths reduction in the grading and conditioning charges at the Coast. I should like to add, on behalf of my friend the Acting General Manager of Railways and Harbours, and in response to appeals which have reached me from the Plateau, that the Railway is also doing its utmost to provide trucks; but there are great demands at the present time for trucks in Uganda as well as in Kenya, and the duty of the Railway is to act fairly between the two territories.

I think that the Agricultural Credits Ordinance which this Council passed as an emergency measure at its last session is also beginning to have some useful effect, although it is early to judge of it. It is, of course, not meant to supersede the normal sources of credit. It was meant to help farmers who had no other help in view. But I am aware that the stringent conditions laid down in that Act have caused a certain measure of disappointment. I hope, however, that advantage will be taken of it, because it seems to me a necessary measure at the present time. I should like to thank the Local Boards and also the Central Board for the excellent work which they have been putting in. The Chattels Ordinance has also, I think, been very helpful, and I believe that the two Ordinances, although their value may not be very widely appreciated at the present moment, will prove their value by the end of the year.

I have also received from many quarters representations that Government should consider the prohibition of imports of flour. That is a rather complicated question, involving other Territories, and as it is still under detailed examination, which it requires, I will not say more about it this morning than that every attention is being given to it.

These, Honourable Members, are all emergency measures, and I do not suggest that they are all that Government can or should do. I will come to longer range proposals in a minute.

One other emergency proposal has reached me in a very urgent form from one or two sources, and that is an appeal for a shilling-a-bag subsidy for maize. I will undertake to have that investigated at once, but I should like to say quite frankly that, personally, I doubt its advisability. If Honourable Members will forgive me for a moment for entering into a very dull lecture on economics, I should like to explain why. I do not know what other Governments in the Empire may be doing in the way of subsidies at the present time, but I fancy that most of them are fighting shy of them. What, however, is absolutely clear is that what is done in the conditions of the great Dominions and even of the self-governing Colonies does not necessarily apply to a territory like Kenya. All the Dominions and the Rhodesias have got manufacturing or mineral industries, or both, fully developed or else in course of rapid development. Agriculture therefore, when it seeks help from the State, can seek it from other sources of wealth and revenue. Here in Kenya, agriculture is the sole basis of all our industries, the sole basis of all our development. Help to agriculture can therefore be drawn only from the fruits or from the promise of agriculture itself. In these conditions, I find it difficult to believe that subsidies would be economically sound or that, in the long run, they would help those who received them. They would be in any case only a palliative, and they might perhaps be a dangerous drug. Our fundamental aim must be to make the agricultural industry reasonably profitable and reasonably secure without adventitious and obviously fleeting aids of that description.

You are all aware of the great efforts which are being made throughout the Colony to reduce the cost of production. So far as Government has been able to assist—and it is very little in that direction—I think assistance has been given. The movement is a most important one; it is one of the fundamental necessities, and I should like to thank and congratulate the Board of Agriculture for the attention and close study which they have given to the subject. I know, however, that there are many to whom these admonitions do not apply, and whom they can little help, and I should like to offer an apology to them for lecturing them in their distress. I always feel that farmers in this Colony are like the men in the line in the war, and that Government is like a rather remote Higher Command or G.H.Q. I know that to the men in the trenches our decisions at Headquarters must often seem like blind indifference, blind folly, or even blind

waste. On the other hand, I am sure that most farmers realise that the men in the trenches cannot see the whole field. But my sympathies are all with them; amid the shell-holes and barbed wire which at present hem them in. I hope they will believe that any unsympathetic platitudes which I have this morning attempted to produce are not the result of indifference but of an honest attempt to see where the interests of the agricultural community really lie.

I think before I come to longer-range measures of State help, I ought perhaps to reply to a retort which will instantly be made to me. Farmers will say, quite properly, that if they reduce costs, Government should do the same. I am not going this morning into the question of next year's Estimates, but I should like to give this Council an assurance that every shilling of the Estimates next year is being most closely scrutinised with a view to producing economy and the maximum benefit to the Colony. There will be certainly no question of increased services—it is very doubtful whether we can even maintain the services which we have. I have, as Honourable Members know, already appointed a committee to see if economies can be effected in the organisation of the Public Works Department, and I think that before the draft Estimates are finally produced it may very well be the case that other inquiries of the same kind may be found desirable. With that assurance, I come to longer-range measures of assistance to agriculture.

I think that Government can in the long run best assist agriculture, with the funds which after all only agriculture itself can provide and maintain, if its assistance takes the form of investment rather than doles. I am convinced that agriculture in this Colony requires, deserves, and will repay advances from the State, if wisely made, at a much lower rate than 8 per cent. There are many branches of agriculture which may reasonably put forward that claim. I will not attempt to go into them all this morning, but I should like to mention two lines of investment by the State in the agricultural industry which seem to me particularly necessary and particularly desirable. As I have said already, the grain-growers are suffering more than any other producers in the Colony. Their future is unsure—prices may rise, costs may be reduced, but I do not believe that anything in the nature of constant security will be attainable unless the smaller landholders move towards mixed farming wherever mixed farming is possible. That has been the advice of all students of agriculture in conditions like these, I think, in other parts of Africa and the world. The success of the dairying industry is a good augury for that movement. With careful organisation and assistance from the

State there is promise of a profitable export trade for dairy produce, in which many producers, European and native, may participate; but capital at a reasonable rate is an absolutely necessary condition. It is needed for fencing, it is needed for dipping, it is needed to secure reasonably good dairy stock. I believe therefore that a Land Bank, able to lay out money on good security at a much lower rate than 8 per cent, is an absolute necessity in order to promote mixed farming and the dairying industry. It is a necessity to European and natives alike, and I should like to assure this Council that I will do my utmost while I still have any power to secure the establishment of a Land Bank here.

Another essential—and this is perhaps even more important—in which the State can assist is the re-establishment of a market for land. This may be achieved in part by assisting present farmers to make their farms pay. Of course that is the case. But I am convinced that it is also necessary to assist new settlers on to the land. A very large measure of closer settlement is possible in this Colony without any fresh alienations of land. Many farmers are holding more land than they can afford, which means a burden in the way of rent and interest charges which handicaps them in dealing with the land which they can actually develop, and many are attempting to develop more land than their means allow. I believe that to be a true estimate of the position, after much travelling up and down and talking with the farmers in this Colony. Many in consequence are quite rightly anxious to sell part of their farms. But there is no market at present and there are no buyers. A market can only be established by bringing new settlers on the land, and two forms of settlement are available: one of them with men actually in Kenya at the present time—men with experience who merely want a little capital to enable them to go on the land. That I believe is the most valuable of all methods of settlement; and their places are taken in their present occupations by new men coming in and gradually acquiring their experience. We must also, I am sure, do our utmost in the near future to invite settlers of the right type and give them facilities for training in the Colony.

It is probably not realised outside this Colony that at present new settlement has practically ceased. The increase of Europeans engaged in agriculture—I give you the figures of the last two years—was as follows: In 1928 there was an increase of 165 over the previous year; in 1929 there was an increase of only 75; and in the present year I very much doubt if there will be any increase at all. Considering how

rapid the increase was a few years back, I think that is a serious situation for the Colony, not much realised by many who think that all available land for settlement is being rapidly taken up. It means that the growth of one essential arm of the Dual Policy has been paralysed. State assistance is essential in order to redress this very serious state of affairs. Here again, a Land Bank is a crying necessity.

The comments of the Select Committee appointed to consider the Land Bank Bill on the criticisms of the Secretary of State have been sent home, and as I have said, I will do my utmost to secure the establishment of this Land Bank if I can. At the present moment undoubtedly new settlers and new investors are hesitating to come into the Colony. Why?

This brings me to the political side of what I wish to say this morning, and I ask again: Why? The main factor is not in doubt. It is the fluctuation of Imperial policy and the cloud of uncertainty which the fluctuation casts over all investment and settlement. The European arm of the Dual Policy in Kenya is at present paralysed by the controversy which besets Imperial policy in Kenya; and I realise that this controversy has now produced a deep sense of grievance and injustice throughout the farming, business and professional elements of the European community in the Colony. But I do not think the evil effects of that controversy are even yet widely appreciated at home.

The reason for that—and I think we ought to endeavour to understand the reason—is that the East African problem, intense and complex though it may be, is really very recent in origin. The first settlement in the Colony established by the Imperial Government was in 1904; that is only 26 years ago. That settlement was haphazard. I have been reading of it lately in Sir Charles Eliot's book. There was no preparation for it; there was hardly any survey. It is interesting to look back on the statement of policy which was made at that time. Sir Charles Eliot, the first Commissioner of British East Africa, said then that "the main object of our policy and legislation should be to found a white colony." It is also interesting, as showing that Sir Charles Eliot by no means underrated the importance of native interests and native welfare in the Colony, that he resigned in the same year because he disapproved of action taken over his head by the Imperial Government in alienating 500 square miles to a single corporation—action which, in Sir Charles Eliot's opinion, interfered with native rights. That action was taken over the head of the then Commissioner of British East Africa by the Imperial Government. And yet, seeing

both sides of the question, as Sir Charles Eliot undoubtedly did, he was able to say in his book published in the following year, 1905—he was able to make the following statement about colonisation in Kenya:—

“ Closely connected with European colonisation is the question of native rights. This difficulty is lessened in East Africa by the paucity of the native population, and I think that the obstacles which it has been supposed to present to European settlement exist in prejudiced imaginations rather than in reality. Natives must be protected from unjust aggression and be secured sufficient land for their wants; but with this proviso I think we should recognise that European interests are paramount.”

That is an interesting contrast to the principles enunciated at the present day, and I quote it in order to show how greatly in a very short time the principles of Imperial policy have changed.

In the following year, 1906, a Legislative Council, the parent of this body, was first established in Kenya, and so far as I am aware there was no change in Imperial policy up till the war. The general line of that policy, expressed by Sir Charles Eliot in his phrase about the paramountcy of European interests, was indeed the keynote of Imperial policy in Africa at that time, and it was by no means peculiar to Imperial policy here.

In 1906 the new Liberal Government gave self-government to the Transvaal and the old Orange Free State. At that time a commission on native questions, a commission of great authority, was sitting in the Transvaal. The Imperial Government did not wait for its Report, nor is there any reference whatever to native rights in all the discussions of the restoration of self-government to those Territories. The grant was made without any mention of native rights and interests because at that time Imperial attention and Imperial interest were diverted elsewhere. As I say, then, Kenya was not peculiar in the Imperial policy which it enjoyed. The Kenya policy was akin to Imperial policy at that time everywhere.

In 1914 the Colony was suddenly caught in the vortex of the war. I have already dealt with its war record—a splendid one—and I think that the splendour of that record was recognised in the policy which the Imperial Government pursued immediately afterwards. Immediately after the war the pre-war policy was resumed and amplified. Soldier settlement was carried out on a large scale. The figures for those

days are rather hard to get, but to the best of my belief, and I have had them examined as closely as possible, within three years after the war the white population was four times as large as on the outbreak of war.

In 1919, I think—or possibly the next year—European elected members were added to this Council on the basis of an adult franchise for both sexes, and unofficial members were added to Executive Council, a very far-reaching constitutional change. In 1923 the culmination of this process of political development was reached, when owing to the financial stringency of that time, the examination of the finances of the Colony was handed over to a committee on which the officials were in a small minority and which made very far-reaching changes in the policy and organisation of the Colony. That was in 1923.

In 1923 the whole picture changes. The Indian controversy then arose, and for the first time the 1923 White Paper announced the doctrine of the paramountcy of native interests. I now come to more recent history, and I wish Honourable Members to understand that in giving this history I am not commenting in any way on the merits of any policy, whatever it be; I am merely showing how sharply policy has changed, how natural therefore a sense of grievance and injustice is, and how necessary a solution which will ensure fairness to all races with an adequate measure of stability. If people will look at the history of Kenya before 1923 and after, they cannot fail to be struck by the contrast. The explanation, however—and we ought to understand it here—is not in reality carelessness or hostility on the part of our own people at home towards their own people's interests in Kenya: far from it. During the last twenty years we have to realise that thought throughout the world has been very active on all subjects connected with the contact of advanced and backward peoples. There has been an entirely new realisation—almost since the great war—of the very difficult problems involved in that contact—social, political and economic. Kenya, as it happens, is an amazing epitome of all those problems. I remember a lifelong student of these things in England saying that although the problems elsewhere might be greater in scale, they were nowhere so intense or so concentrated, to his knowledge, in any part of the world. Hence the controversy in which, since 1923, Kenya has been immersed.

The result has been that even since 1923 there have been severe fluctuations on two fundamental points. One is the principle of the association of the settled population in Kenya

with the Imperial Government in the trusteeship for native welfare. That is so important a matter that I would ask your attention for a moment in dealing with it. In the 1923 White Paper the declaration setting out the paramountcy of native interests and the consequent decision of the Imperial Government to retain complete control over those interests was in fact, as people soon after realized, inconsistent in some measure with the constitution already granted to Kenya. Hence, some attempt was necessary to interpret the declaration of 1923. This necessity was faced by the Imperial Government in the White Paper of 1927, in which it proclaimed its desire to associate the settled population more closely with the trusteeship for native welfare. The Hilton Young Commission were accordingly instructed in their terms of reference "to make recommendations in regard to possible changes in the powers and composition of the various Legislative Councils . . . so as to associate more closely in the responsibilities and trusteeship of Government the immigrant communities domiciled in the country." Summarizing their conclusions on this point, the Commission held that the following rights should be secured to the European population:—

- (a) The right to effective representation on matters affecting their taxation, sufficient to give them power to check extravagance in Government expenditure.
- (b) Protection against legislation or administration policy which would fundamentally change the economic conditions on the basis of which they settled in the country.
- (c) A right to have their representatives consulted on all questions affecting the government of the country (including native affairs and other matters reserved for control by a higher authority).
- (d) An opportunity for political self-expression, which will enable them to stimulate efficiency in the public services."

The Commission made definite proposals with the object of securing these rights to the European population. Their proposals governed the instructions given to Sir Samuel Wilson in the mission of *rapporteur* confided to him before the change of Government in 1929, and inspired his report. But the White Paper of 1930 ignores the White Paper of 1927 and reverses categorically and in terms the proposals in this

direction put forward in the Hilton Young and Wilson Reports. Here, then, is one very sudden and severe fluctuation since 1923 in a matter of principle profoundly affecting the Colony.

Another example is Imperial policy in regard to the Common Roll. In 1923 the White Paper definitely declared against the policy of a Common Roll. There was no reference to the subject in the White Paper of 1927. The Hilton Young Commission dealt with it and advised that a settlement based on a Common Roll could only be secured by agreement, although it believed that such a policy was desirable. In the 1930 White Paper which we have just received the 1923 declaration is completely reversed, and it is suggested that overriding powers on this question should be given to a High Commissioner. Here is yet another complete change in Imperial policy in the course of a very few years.

Now I am convinced that there is no large body of English opinion conscious of these fluctuations or of the unfairness, the grievance and the material injury which they produce. I was looking the other day at one of the leading London Sunday papers which, at the beginning of June, published a calendar of interesting social, political, sporting and Imperial events for that month—the month of June. I looked at it with some interest. The first Report of the Simon Commission on India, 10th June, was announced in heavy type; and so was the second Report of the Simon Commission on the 24th June. I looked for the date on which our Report was to be issued—a Report of some importance to us, which was bracketed by the two halves of the Simon Report. Our date was, as you remember, the 20th June. On that day the only entries in the calendar were the Theatrical Garden Party and the Wokingham Stakes. I quote that, not in order to pour contempt upon the English newspapers which study Imperial affairs—far from it—but as an illustration of the fact that the great mass of educated English opinion is really unaware at the present moment how important these questions are, how vital to the peace and progress of all races in Africa, and how essential to the stability of the Empire in Africa a consistent policy has now become.

I believe, however, that the appointment of the joint Select Committee of both Houses of Parliament offers a great opportunity of reaching consistency and a fair agreed policy at last, and I think that all should welcome, as I believe they have, the Secretary of State's declaration that the Government at home is aiming at the greatest possible measure of agreement and that the Select Committee is the medium

through which that agreement should be secured. I think, indeed, that a recognition is now growing in England that the interests of all races in Kenya are being damaged by controversy and by the fluctuation from policy to policy which controversy engenders.

With that growing recognition in view I should like before I sit down to summarise the two essential elements of progress which the Dual Policy combines. First there is the native side. I have already pointed out that the development of native lands is essential to the whole Colony's prosperity. I think we all recognise that. This is, one need hardly repeat, a purely agricultural Colony. The Native Reserves contain much of its richest agricultural land, and increasing production in the Reserves is necessary to support and expand the administrative, educational and health services which the native population so strongly demand and on which their progress depends. If the Reserves do not add increasingly to the total production of the Colony, they will inevitably overweight it with responsibilities which it has no adequate means to discharge, and all communities alike must pay the price.

*The Ormsby-Gore Commission clinches this part of its Report in a few sentences on which I cannot improve :-

"It is clear that the various lines of progress which we suggest in connexion with the development of Kenya will entail additional staff and expenditure. Consequently they can only be carried out as and when there is a sufficient expansion of revenue to meet such new charges. Everything therefore depends on increased productivity on the part of all sections of the community with the resultant increase in purchasing power. The Dual Policy of increasing the quantity and quality of production on the native lands *pari passu* with the development of European cultivation is accordingly necessary, if only on financial grounds. . . . We feel that the sincere acceptance by officials, unofficials, and natives of the Dual Policy inaugurated by the late Sir Robert Coryndon is the necessary first step to that stability of economic conditions without which real progress cannot be maintained."

*Note by His Excellency :-

"In the speech as delivered I made no reference to the part played by my predecessor, Sir Robert Coryndon, in defining the Dual Policy. I was indeed unaware that the first credit for doing so belonged to him. My attention has been called to the omission, and accordingly and adding the relevant passage from the Ormsby-Gore Report."

This is purely the economic side of the argument; on the side of social and political development the argument is equally strong. The 1927 White Paper called attention to the importance of the Dual Policy to native welfare on that side as well.

Similar considerations prove that steady development in the settled areas is equally necessary if the whole Colony, including the native population, is not to suffer. The Hilton Young Commission insisted again and again that—I quote their own words—"the quality of the settlers should be maintained at a high level." I have argued more than once in many speeches that this means strong white settlement. Commenting on this view, the Hilton Young Commission observed :-

"The strongest foundation of western civilisation and of British rule does not lie in the size of the white community, which must always remain a relatively small island in the midst of a greatly preponderant black population, but in the establishment of a rule of justice which will enlist the loyalty of the native people, and strengthen their confidence in British rule."

Every one will agree that justice is an essential element in any policy to be adopted, but that it will be sufficient in itself I consider much more disputable. The history of alien government in other parts of the world—in India, for instance—hardly supports that thesis. When, however, the fullest possible weight is allowed to it, the fact remains that the quality of the settler must depend not only on the type of new settler introduced and on the rate at which settlement is introduced, but even more on the character, the industry, the morale of the white community as a whole which breeds and develops here. Take the case of the rising generation, which has been one of the great preoccupations of this Council during my tenure of this post. In 1927 there were 683 European children in Government schools; in 1928 there were 740; in 1929 there were 948. Between 1928 and 1929 there is I think, an increase of nearly thirty per cent. There are probably over a thousand in school now, and the increase shows no sign of flagging. It is nearly doubling every three years. That is only one example of the expenditure which the maintenance of quality rightly emphasized by the Hilton Young Commission imposes on this Colony. The expanding services required to maintain the quality of the white population are wide in range and proportionately heavy in cost—I need only mention also health and public works—and if the

expansion of these services cannot be met by expanding development, the white community must either do without them or become a charge upon the rest of the population. In either case it must deteriorate, and the price of its deterioration will not be paid by the white population alone.

The Dual Policy therefore is imposed upon us by the facts. There is, I think, a wide agreement here with the interpretation given by the Hilton Young Commission to the doctrine of the paramountcy of native interests. That is one branch of the Dual Policy, but one branch alone. Equally essential is the other branch, and there again the Hilton Young Report surely commands universal assent in its statement that the paramountcy of native interests cannot fairly or reasonably be pursued as a "threat of injury" to all other interests. The interests of white and black in Kenya are, in truth, not antagonistic by complementary, not mutually exclusive but mutually necessary and beneficial.

I believe that the conflicting aims of the different schools of thought on these questions may now at last be justly reconciled if only those facts are given due weight, and that constitutional arrangements are feasible which should meet the needs and allay the anxieties of all. The Select Committee at home will have that great opportunity to seize. It is my hope and prayer that from the work of that Committee there may emerge a framework of government which will resolve our controversies and give all races in Kenya the means of developing, as their capacities permit, with mutual understanding and in the sunlight of peace.

MINUTES.

The minutes of the meeting of 31st May, 1930, were confirmed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the Table:—

By THE HON. COLONIAL SECRETARY (MR. H. M.-M. MOORE):
Third Supplementary Estimates, 1929.

By THE HON. THE TREASURER (MR. H. H. RUSHTON):—
Statement of Excesses on Sub-Heads which have been met out of savings under the same Head as at the 30th September and 31st December, 1929.

By THE HON. THE ACTING GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS (MR. H. E. GOODSHIP):—

Report on the Audit of Accounts, Kenya and Uganda Railways and Harbours, 1929.

SUSPENSION OF STANDING ORDERS.

THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR, K.C.): With Your Excellency's leave I beg to move that Standing Rules and Orders be suspended to enable a Bill to Amend the Local Government (Rating) Ordinance, 1928, to be taken through its first and second readings to-day without due notice. Hon. Members will see from the Order Paper which is in their hands that the original suggestion was to take this Bill through all its stages; I have Your Excellency's authority for saying that in the light of circumstances which have very recently arisen and which I shall explain on moving the second reading of this Bill, it will not be necessary to-day to do more than the first and second readings of the Bill.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. H. T. MARTIN): Your Excellency, I beg to second.

The question was put and carried.

BILL.

FIRST READING.

THE LOCAL GOVERNMENT (RATING) (AMENDMENT) BILL
(No. 2).

On motion of the Hon. the Attorney General the Local Government (Rating) (Amendment) Bill (No. 2) was read a first time.

SECOND READING.

THE LOCAL GOVERNMENT (RATING) (AMENDMENT) BILL
(No. 2).

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of a Bill to Amend the Local Government (Rating) Ordinance, 1928.

The way of the Mombasa rating authorities is a hard one. Since this Council last met in Mombasa two years ago the local authority of this municipality has found itself charged with the administration of an extremely technical and involved measure, and that task, which in itself is quite sufficient

for any municipality to have to shoulder, has certainly not been made any easier for it by the attitude adopted from the very outset by a large section of the community here.

The Statute is an intricate one, a difficult one to understand, and an extremely difficult one to apply. There has been from the very beginning the utmost opposition to every provision of that Statute. All the resources available for that section of the community have been taken advantage of; every technicality which possibly could be raised has at one time or another been raised in the courts and the municipality, Sir, is still endeavouring to collect the rate for 1929.

The last trouble that has befallen, Sir, is explained shortly in the Objects and Reasons appended to this Bill. Section 18 of the Statute provides that before striking a rate the rating authority shall give thirty days' notice of that rate in the Official Gazette and in a newspaper circulating in the municipality. In the case of the 1929 rate, notice was duly given in the Official Gazette on the 19th November, striking the rate as from the 20th December, but unfortunately the parallel notice in the local newspaper was not published until the next day, the 20th November. Now, Sir, less than a fortnight ago the Court of Appeal for Eastern Africa held that the period from the 20th November to the 20th December is not thirty clear days, that therefore due notice has not been given, and that there can be no rate for the year 1929. Of the correctness of that decision, Sir, there can be no question; of the absurdity of the situation caused by such a decision I think the same can be said. The municipality of Mombasa has inevitably had to depend, and must for some time yet to come largely depend on subsidies and subventions from the general revenue of the Colony; the taxpayer of the whole of the Colony has been helping the municipality of this town. Every taxpayer in the Colony has a direct pecuniary interest in this Bill.

The objects of the Bill, as hon. Members will see, Sir, is to get over that sheer technicality and declare that, notwithstanding the fact that notice in the *Mombasa Times* gave only twenty-nine clear days before the striking of the rate, yet that notice shall be valid and effectual and the rate will be due and payable. But within the last forty-eight hours, Sir, since I came to Mombasa, I find that the tale of woe is by no means complete. There are some eight or ten other points which have been raised against the propriety of the rate and the propriety of the roll. Every one of those, Sir, so far as we can *ferre*, will be taken in Court; no matter what the pronouncement of that Court may be, there will be an appeal to the Court of Appeal for Eastern Africa—and the

1929 rate will probably still be unpaid when this Council next meets here. And that, I repeat, Sir, entails that interest charges due on loans from the general revenue will be unpaid. So, Sir, if hon. Members will turn to the Order of the Day they will see that it is proposed to move in Committee Stage on this Bill certain further amendments. It is not sufficient, Sir, to declare that the notice in respect of the rate for the year 1929 shall be valid; it is necessary, it is vital, that we should go further and declare that the rate itself is valid; and to get yet further, Sir, and declare that the interim roll should also be valid.

I dare say many hon. Members will think that in this measure we are going very far. It goes so far, Sir, as to provide, both in respect of the rates for 1929 and the roll on which the 1930 and 1931 rates will be struck, that they shall not only be final and binding but shall not be liable to be contested in any court in the Colony. I can assure hon. Members so far as I have been able to envisage there is nothing inequitable at all. There are people, I repeat, who are only too anxious to defer the payment of those rates; who, in order to get delay, are prepared to take advantage of every technicality, of every minutia and detail in an extremely intricate Ordinance. It is time that that sort of thing was put an end to, Sir. It is not the intention of Government, Sir, to go further than the second reading this morning. Very little time has been given to hon. Members to consider the amendments, and in view of the fact that the writ for the repayment of rates already paid was fortunately delayed six days, it is therefore not necessary to enter an appearance to it until the 18th of this month. The extreme urgency has gone, and I have Your Excellency's authority for saying that it is proposed to take the remaining stages on Monday, after hon. Members have had an opportunity of giving full consideration and due weight to the amendments which they will find on the Order of the Day.

I think I have sufficiently explained not only the necessity for the Bill but for the urgency of the Bill. It is a vital matter, not only to Mombasa, but to the Colony as a whole.

I beg, Sir, to move that the Bill be read a second time.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to second.

HIS EXCELLENCY: The question is that the Bill be read a second time.

The question was put and carried.

BILLS.**FIRST READINGS.**

On motion of the Hon. the Attorney General the following Bills were read a first time:—

- The Bankruptcy Bill.
- The Mental Disorders Bill.
- The Mining Bill.
- The Native Tribunals Bill.
- The Prisons Bill.
- The Arbitration (Foreign Awards) Bill.
- The Brokers (Amendment) Bill.
- The Deeds of Arrangement Bill.
- The Explosives (Amendment) Bill.
- The Native Authority (Amendment) Bill.
- The Sale of Goods Bill.
- The 1929 Supplementary Appropriation Bill.
- The Trade Marks Bill.
- The Trout Protection (Amendment) Bill.

Notice was given to move the second readings at a later stage of the Session.

*Council adjourned till 9.30 a.m. on Friday,
11th July, 1930.*

FRIDAY, 11th JULY, 1930.

The Council assembled at Government House, Mombasa, at 10 a.m. on Friday, the 11th July, 1930, HIS EXCELLENCY (LIEUTENANT COLONEL SIR EDWARD WILLIAM MACLEAY GRIGG, K.C.M.G., K.C.V.O., D.S.O., M.C.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

Subject to the substitution of the word "summoning" for the word "summarising" in the eighth line, the minutes of the meeting of the 10th July, 1930, were confirmed.

PAPERS LAID ON THE TABLE.

BY THE HON. T. FITZGERALD (POSTMASTER GENERAL):—

Abridged Report on the Post and Telegraph Department for the year 1929.

NOTICE OF MOTION.

THE HON. CONWAY HARVEY: Your Excellency, I beg to give notice of the following motion:—

"This Council would welcome an assurance by Government that no alteration will be made in the Law of the Colony governing Native Policy without the consent of the Legislative Council."

I have to give notice of another question, Your Excellency, which I should like to hand to the Clerk for the Government's consideration.

ORAL ANSWER TO QUESTION.**THE EDUCATION BILL.**

THE HON. CONWAY HARVEY asked:—

What is the position regarding the new Education Bill, the introduction of which was expected early this year?

THE HON. THE COLONIAL SECRETARY (MR. H. M.-M. MOORS): The Bill has been submitted to the Secretary of State for the Colonies, who has telegraphed that it is essential that he should consult his Advisory Committee on Education before making his comments. The Secretary of State will do what he can to expedite his reply, and, whilst he regrets any inconvenience which may be caused by delay, he trusts this Council will agree that the legislation contemplated necessarily requires very full consideration.

BILLS.

SECOND READINGS.

THE ARBITRATION (FOREIGN AWARDS) BILL.

THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MacGREGOR, K.C.): Your Excellency, I beg to move that a Bill to give effect to a certain Convention on the execution of Arbitral Awards and to amend the Arbitration Ordinance be read a second time.

As hon. Members are aware, Sir, in recent years the practice has arisen of settling a very large proportion of the commercial disputes which arise in this Colony, as elsewhere, by arbitration instead of by having recourse to the courts. Shortly after that principle was accepted and became common, a protocol was signed in 1923 in Geneva providing for the execution of arbitral awards delivered in any territory by the person to whom application for execution was made. This Convention, Sir, this Colony adhered to, and under the terms of that Convention, which is governed by a Convention to the Arbitration Ordinance, large numbers of Empire awards have been made enforceable within this Colony.

But obviously, Sir, that only went half way in the desired direction. There still remained the very large question of foreign awards, and so, Sir, in 1927, at Geneva, there was passed a Convention on the execution of foreign arbitral awards, to which His Majesty's Government adhered on the 26th September in that year. The Federation of Chambers of Commerce of the Empire have since that date been pressing very hard for legislation giving effect as widely as possible throughout the Empire to the terms of that Convention. In February of this year the Imperial Parliament passed an Act giving effect throughout Great Britain to the Convention, and now, Sir, in the Bill which hon. Members have in their hands, this Colony proposes also to give effect to that Convention. The result will be, Sir, that where commercial transactions take place between a firm or person trading in this Colony and commercial interests in a foreign territory—and I would remind hon. Members that north, south and west we have the possessions of foreign powers in Africa—where such transactions as these take place, Sir, it will now be possible under this legislation to give effect to an arbitration award even though it took place in a foreign country.

The actual terms of the Bill, Sir, are so short, that they really call for no comment at all. The material thing is: What is a foreign award? What is the effect of a foreign award? On what days can it be enforced? And what evidence is necessary before it can be enforced by the courts of the Colony? The Schedule, Sir, sets out the Convention at

length, but I would remind hon. Members that this is a matter outside the purview of this Council—it is merely a verbatim repetition of the International Convention of 1927.

As hon. Members are aware, the Association of Chambers of Commerce of Eastern Africa is at present sitting in Mombasa. Yesterday afternoon the Solicitor General and I had an opportunity of meeting that body, and we discussed this measure, together with the other commercial measures which appear on the Order of the Day to-day, and I am glad to say, Sir, that the Association unanimously endorsed the action which had been taken. It suggested no amendment at all, and urged the necessity for enacting this legislation as early as possible.

The Bill is a very short one, Sir, but I would suggest, subject to anything that Your Excellency has to say to the contrary, that this—together with the other four commercial measures which are on the Order of the Day to-day—might be referred for examination to a Select Committee, which will be able to take evidence if necessary from the members of the Association of Chambers of Commerce who are now here in Mombasa.

With these remarks, Sir, I beg to move the second reading of this Bill.

THE HON. C. G. HOWELL (ACTING SOLICITOR GENERAL): Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is that the Arbitration (Foreign Awards) Bill be read a second time.

The question was put and carried.

THE BANKRUPTCY BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of a Bill relating to Bankruptcy.

There are some seventy-one pages of this, and I certainly do not propose to enter on a complete examination of the provisions of this very voluminous measure or a dissertation on the meaning or the effect of bankruptcy. It is a subject, Sir, which I firmly hope no hon. Member of this Council will ever have to take more than an academic interest in.

In 1925, Sir, this Colony passed what was rightly regarded as a model Bankruptcy Ordinance for East Africa, and immediately after that, efforts were made to obtain some measure of reciprocity between the adjoining territories. At that date, and, in fact, at this moment, Sir, the position is that if a

merchant trading in more than one of the colonies becomes bankrupt, concurrent bankruptcy proceedings have got to be taken in each of the territories in which he has either assets or liabilities. That is an intolerably burdensome situation for commercial men in this part of the world, and reciprocity has been the goal at which the commercial community of this Colony has been aiming for a number of years.

In 1926, Sir, at a conference of Law Officers, a resolution was adopted pressing the Governments to enact similar and reciprocating bankruptcy legislation, taking the 1925 Kenya Ordinance as a model. In the meantime, Sir, bankruptcy legislation in England was tightened up in 1926, and on consideration it was felt that inasmuch as the amount of fraudulent bankruptcy in this Colony and in the adjoining territories was alarmingly great, it would be well to incorporate in the 1925 local Ordinance the provisions of the most recent English statute. And so, Sir, this measure has been evolved, following exactly the terms of the 1925 Ordinance, following them so slavishly, Sir, that even the section numbers are not altered, obviously a matter of convenience to those who have to apply the legislation. But a number of amendments have been made to tighten up bankruptcy practice, particularly in the direction of making the path of the fraudulent bankrupt fraught with greater dangers and difficulties than it is at present, and introducing the principle of reciprocity. The amendments to which I need specifically draw attention, Sir, are, I think, relatively few in number.

There is one which has formed the subject of a specific resolution by the Kisumu Chamber of Commerce, and on that matter I may say that that Chamber is now completely satisfied; provision had been made, though they were not aware of it—that is the provision which hon. Members will find in clause 94 of the Bill empowering the Supreme Court to delegate the whole or any of its powers in bankruptcy, either generally or in any specific case or in any class of cases, to a subordinate court. Just the other day it was necessary to take the public examination of a bankrupt in Eldoret, and in order to do that His Honour the Chief Justice had personally to go up to Eldoret for a mere formal examination. That, I am glad to say, will now go, and it will be possible for public examinations to be held, for receiving orders to be made, and all other steps in the course of a bankruptcy to be undertaken by a subordinate court, either generally or in a particular case, in accordance with the instructions of His Honour the Chief Justice.

So far as fraudulent debtors are concerned, Sir, clause 134 alters their position very drastically indeed. At present the maximum punishment for which a fraudulent debtor is liable,

either for obtaining credit by fraud knowing that he was insolvent, or by making a fraudulent disposition of his property, is twelve months. That is manifestly not a sufficient deterrent, Sir. The history of this Colony in the last few years has shown that clearly, and now, Sir, the penalty is increased to five years' imprisonment, which is the penalty for the analogous offence of cheating under the Penal Code.

Various minor amendments are suggested, Sir, which hon. Members will find set out in the Objects and Reasons.

Finally, Sir, I come to the most important and, I think, the most necessary change which is made—that of reciprocity. Exactly parallel legislation to this, Sir, has already been enacted in Tanganyika Territory and in Uganda. The measure was prepared in consultation with the Attorneys General of those two territories, and if this Bill in its present form is accepted by this Council the position then will be that if a debtor becomes or is made a bankrupt in this Territory he will automatically then be declared a bankrupt also in the other Territories where he may have assets or liabilities, and all his assets throughout the group of Territories will be available in satisfaction of the claims of his creditors, even though they are in another of those Territories. That, Sir, does away with the present position whereby three, sometimes four, concurrent applications to the court have got to be made in the different Territories. It will very greatly cheapen procedure; it will very greatly hasten the realisation of the assets of a bankrupt and their distribution to his creditors. Zanzibar I am happy to say, Sir, though they still cling to the Indian Insolvency Act which has been applied by a decree there, has now decided also to enact this year a decree providing for reciprocity, and I hope that by the end of the year, Sir, so far as bankruptcy at least is concerned, there will be a reciprocal provision throughout all four Territories; and no more than one application to the court in one territory will be necessary.

I beg, Sir, to move that the Bill be read a second time.

THE HON. C. G. HOWELL: Your Excellency, I beg to second.

HIS EXCELLENCY: The question is that the Bill be read a second time.

The question was put and carried.

THE DEEDS OF ARRANGEMENT BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of a Bill to Regulate Deeds of Arrangement.

This Bill, Sir, embodies provisions which are, I think I may say, a necessary corollary to the provisions of the Bill with which we have just dealt. It is, as hon. Members are aware, open to a bankrupt to enter into a deed of arrangement, thereby becoming what is known as an "arranging debtor," but there is a gap in our law at the moment, Sir. That gap is that a debtor who, though not insolvent, is afraid of insolvency, either because of conditions prevailing at the moment or possibly because of his own bad business methods; such a man, though not insolvent at present, can come to no arrangement with his creditors. He cannot, for instance, arrange with them that they should carry him over for a short time or assist him to reorganise and reconstruct his business. He has the right to go to the Bankruptcy Court and enter into a composition with his creditors even though at the moment he may be strictly solvent.

This Bill, Sir, which follows the lines of legislation which has been in force in England since the mid eighties, will enable such a man to arrange with a majority of his creditors, enter into a deed with them, and thereby avoid not only the stigma and the delay but the expense of bankruptcy.

The chief virtue of the measure, Sir, is that not only does such a deed provide for absolute equality of treatment between creditors, but it does what is really after all more important in many cases, it gives complete protection against the risk of the debtor's estate being swept away by the costs of legal proceedings at the instance of some individual unfortunate creditor.

The provisions are simple, Sir. A deed of arrangement may be one of five different kinds, which hon. Members will see set out in clause 3, ranging from an actual assignment of all assets down to the appointment of a receiver and manager. Such a deed must be executed by a majority in value and in number of the creditors as well as by the debtor. It must be registered, and after it is registered the fact of the making and registration of such a deed must be notified by the Official Receiver to every creditor. Any dissatisfied creditor then has an opportunity within the period of one month after notification, of making the debtor a bankrupt. If he does not exercise his option within that time he loses his right so to do in respect of the debt then due until such time as the deed is avoided by the misconduct of the debtor or by the agreement of the creditors.

It is a cheap system, Sir; it gives publicity; it avoids the stigma of bankruptcy; and it is designed to help many a man who, under the conditions prevailing at present in the commercial world, is perhaps unable to carry himself over a short period of stress and bad times.

There have been certain points, Sir, raised about this Bill. The Executive of the Association of Chambers of Commerce adopted it with acclamation; the Nairobi Chamber of Commerce equally emphatically rejected it. At yesterday's meeting, Sir, we had an opportunity of hearing the arguments advanced by the Nairobi Chamber against the measure and of putting up such counter-arguments as we could. I am glad to say that the Association of Chambers of Eastern Africa yesterday accepted the Bill *in toto*, with the one minor exception, Sir, that the period of one month to which I have just referred, the period within which a disgruntled creditor may go to the Divorce Court—Bankruptcy Court, Sir; it is becoming a bad habit, Sir—should in the opinion of the Association be extended to two months, so as to make ample provision for creditors in Great Britain or elsewhere overseas. To that amendment, Sir, I do not think the Government is likely to take the slightest exception.

This Bill also, Sir, if I may suggest, I should like to see sent to the same Select Committee for examination in detail.

I beg to move, Sir, that the Bill be read a second time.

THE HON. C. G. HOWELL: Your Excellency, I beg to second.

HIS EXCELLENCY: The question is that the Bill be read a second time.

COL. THE HON. W. K. TUCKER: Your Excellency, I would like at this stage to confirm, as one of those who were privileged to be present at yesterday's discussion between the Chamber of Commerce and the hon. and learned gentleman, the singular measure of unanimity that was achieved, and in particular I should like to confirm what he has just stated as to the change of front which the Nairobi delegates were able to assume after hearing what he had to say.

There are points of discussion, but I regard them chiefly as matters of Committee stage rather than here, Sir, and they can be left over the more readily because quite a number of well-informed commercial men undertook, if necessary, to come forward at the Committee and give the necessary evidence.

The only one point which I should like to emphasise is that we all felt yesterday that the nature of the Bill was rather less in the nature of a stigma than we had previously thought, and we left the room last night regarding it rather in the nature of a mortgage, something which might and

probably would be used to a very considerable extent by men who knew themselves to be positively solvent, but merely required the relief and indulgence of their creditors for what might be a comparatively short period.

HIS EXCELLENCY: The question is that the Bill be read a second time.

The question was put and carried.

THE SALE OF GOODS BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of a Bill relating to the Sale of Goods.

Commercial conditions have changed very considerably since the middle of last century. Particularly have they changed, Sir, in so far as the commercial transactions of those who live in the more distant parts of the Empire are concerned; and yet, Sir, our local legislation on the sale of goods bears the date 1872, and bears the obvious imprint of the early fifties, when it was first prepared. Since that date there has been a volume of extremely critical case law on this very important subject, and finally, Sir, that case law was embodied in what is generally accepted as one of the most carefully and admirably drafted statutes which adorn the Statute Book of England, the Sale of Goods Act of 1893. So admirable is that Act that in spite of changing conditions it has never been necessary to amend one word of it. And yet, Sir, here we are working under an antiquated system, which may be said to represent commercial practice or the state of the law which existed at the latter date, that is, 1872.

The Indian Contract Act, to which I refer, Sir, has been amended in India and brought into line with English legislation. That amendment, in the terms of the Orders-in-Council of this Colony, is not applicable to this territory. Zanzibar, which also uses the Indian Act, has amended it to bring it into line to a large extent with the English Sale of Goods Act. We have done nothing of the sort, Sir, up to now, and I do not think we can do so now too rapidly.

The Bill is a simple one. It is a most admirably lucid measure, as I have already stated, and it embodies principles which it is almost common knowledge are second nature to all of us. But there is one provision, Sir, to which I think I must draw specific attention, and that is the provision in clause 6 of the Bill relating to contracts for the sale of goods to the value of £10 or upwards. Since the fruitest days of the Statute of Frauds, that has been the law of England. The provision of the Statute of Frauds—section 4 of that Statute—

were repeated in the English Sale of Goods Act. They have never been the law in this Colony for the simple reason that the Indian Contract Act specifically repeals section 4 of the Statute of Frauds. The provision is that sale of goods to the value of £10 or upwards cannot form the subject of an action unless either the purchaser has taken part of the goods, accepted delivery of part of the goods, or the purchaser has made part payment for those goods, or the contract is evidenced by writing, by memorandum or otherwise. Here I would interpolate, Sir, that an exchange of letters is a sufficient memorandum. It may be a mere coincidence, Sir, but I think it is one worth mentioning, that the only two countries where this provision does not exist are Scotland and India, and it is from these two countries that the bulk of the commercial policy of this Colony is taken. Whether it is a coincidence or not, I should not like to say.

I should be very glad indeed to receive constructive criticism from hon. Members, who have a great deal more knowledge of this Colony than I have, as to whether under the conditions which prevail here—the partial illiteracy in the English language of many of one's customers—it is a wise provision to make or not. With that one exhortation I very heartily commend this Bill to all hon. Members.

THE HON. C. G. HOWELL: Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is that the Sale of Goods Bill be read a second time.

The question was put and carried.

THE TRADE MARKS BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill relating to the Registration of Trade Marks be read a second time.

This is the last, I am glad to say, Sir, of the steps which we are taking this session to bring about the unification of commercial legislation throughout the various East African territories. Not only unification is our aim, but also the equally laudable and important aim of bringing our legislation on these matters up to date, and into line with the practice which prevails in England.

The main change which is introduced in this Bill, Sir, is the division of the Register into two parts—Part A and Part B—a very important and necessary change, Sir, in the conditions here, because were it not made it would be impossible to register as a trade mark a mark which had been in current use in the Colony for a number of years, but which could not be registered in the Register of Trade Marks in England.

There must be many such marks, Sir, here, as there have been proved to be elsewhere. Hon. Members will find, on reference to clause 14 of the Bill, the provision to which I refer. All original marks which could be registered in Great Britain will here fall into Part A of the Register, but those other marks, marks which have been bona fide and honestly used in the Colony, which at present cannot be registered, will now be susceptible of registration in Part B of the Register, and will have the same protection and the same rights which they would have if they had been registered in the existing Register, consisting of one part only.

There is one other matter to which I desire to draw attention, and that is in clause 13. Cotton marks have always been treated in a separate category in this Colony. A cotton mark may not be registered in this Colony unless it has been previously registered in the Manchester Register in England. It is proposed now, Sir, to extend the same protection to steel marks. I have no doubt hon. Members are aware that there are two branch registers in England, the Manchester Register dealing with Cotton Marks, and the Hallamshire Register dealing with Steel Marks; and all marks relating to wrought or unwrought metal cannot be put on the Central Register unless they have been accepted by the Cutlers' Company of Sheffield and put on the Hallamshire Register. It is desired to give the same protection to these marks here, Sir, and so it is proposed to make special provision to do so here.

In the light of recent information which has recently come into my possession, there is a large and extremely flourishing oriental country and a large industrial town which has recently thrown out two new suburbs. One is devoted to the making of silk and the other is devoted to the making of cutlery, surgical instruments and other metal goods. The Sheffield respectively, so that quite obviously such goods may emanate from that very oriental country bearing the legend, "Made in Sheffield" or "Made in Macclesfield." I think we should endeavour to counter any move of that sort by compelling them, if they wish to say it is made in Sheffield, to go to the real Sheffield to register such mark. That is why the Bill provides that the protection which hitherto has been found so useful in giving protection to cotton marks should now be extended to steel marks also.

Those five Bills, Sir, which have just been taken through their second readings, are those that I would suggest should be referred to the same Select Committee.

I beg to move the second reading.

THE HON. C. G. HOWELL: Your Excellency, I beg to second.

HIS EXCELLENCY: The question is, that the Bill be read a second time.

The question was put and carried.

THE PRISONS BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of a Bill to consolidate and amend the Law relating to Prisons, to provide for the Organisation, Discipline, Powers and Duties of Prison Officers, and for matters incidental thereto.

To a very large extent, Sir, this is no more than a consolidating measure. The existing Prisons Ordinance is an inordinately lengthy one—it extends to well over 110 sections. It goes back to 1914, and it unfortunately embodies a very large number of provisions, such provisions for instance as those relating to the enlistment, the recruitment, the leave, the equipment of prison officers, the clothing and feeding of prisoners, in the Statute itself. Modernisation therefore, Sir, in matters such as that is inordinately difficult because every step which is taken entails either an express amendment of the law or a deliberate flouting of the law. Matters such as those, Sir, which must owing to their nature be susceptible to frequent change, should not, in my submission, appear in the body of the Statute, but should be matters for regulations. If the Medical Authorities, for instance, said that the prevailing prison diet was lacking in vitamin B, or whatever it may be, it manifestly is not in the interests of the prisoners that we should wait until Legislative Council can pass an amendment before giving them the requisite quantity of that vitamin. It should be possible to do such a thing as that by regulation and so, Sir, this measure cuts out some fifty sections of the existing Prisons Ordinance which are quite unnecessary and the contents of which, in a modern and up-to-date garb, will be embodied in regulations. Those sections, Sir, deal with nothing important; it is purely the terms of enlistment, the equipment, the terms of leave, the pay and salary, the feeding of prisoners, and matters such as these.

It is not suggested, Sir, for instance, that the powers of punishment or the statement of the offences for which either a prisoner or a prison officer is liable to punishment should be left to regulations. Those will be found in the body of the Bill itself, but on minor matters power is given to make regulations, and by so doing we are able not only to ensure up-to-date prison administration but incidentally to curtail the length of the very long Statute which at present appears in Volume I of the Revised Edition.

The only new provisions, Sir, are those which hon. Members will find in clauses 32 to 38, and to those I think no one can possibly take exception. They deal with contingencies which unfortunately are apt to occur. For instance, it is possible that in any prison an infectious disease may break out, when the isolation of prisoners who have not yet contracted that disease is of the utmost importance; under the law as it now stands it is impossible to take a prisoner out of a prison and put him in any place except another prison. Manifestly in such a case, the all-important thing is to take them out of the prison and segregate them somewhere. At present that is impossible, Sir, and we propose now to provide for that.

Again, in the case of a very serious illness it is necessary, it is essential in the interests of the prisoner, to send him to a hospital.—If we do that now, Sir, he can get up and walk out; he is no longer in legal custody. Under the new provisions of the Bill it will be possible to send him to a hospital for treatment, but all the time he will be deemed to be in legal custody, and if he escapes he is liable to the same punishment he would be liable to were he to escape from the prison itself.

Those are the only new provisions to which I need draw attention at all. There are a number of purely verbal ones.

This Bill also, Sir, in view of its length, is one that I think might properly be referred to a Select Committee.

I beg to move that the Bill be read a second time.

THE HON. C. G. HOWELL: Your Excellency, I beg to second.

HIS EXCELLENCY: The question is that the Bill be read a second time.

The question was put and carried.

THE BROKERS (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of a Bill to amend the Brokers Ordinance.

Brokers, Sir, under the existing legislation, include what we all know as brokers and also money-changers and gold- and silver-smiths. The police have represented that existing legislation is much too elastic, and that there is a very great deal of jewellery stolen, especially in Mombasa, which finds its way into the hands of the gold- and silver-smiths and is melted up by them and lost sight of.

The Bill is designed, Sir, to make it more difficult for the ordinary broker to get away with it. The main provision, Sir, is that they must keep books in either English or Swahili; in those books they must set out every purchase and every sale which they make, and that they are debarred from trading anywhere but on the licensed premises. That provision, Sir, does not apply to money-changers; but all other brokers, all brokers other than money-changers, must be limited to the premises which are licensed, and they are bound by this amending Bill to retain on the premises for seven days all property which they purchase before they either dispose of it or break it up.

The Commissioner of Police, Sir, is confident that if these amendments are accepted, the amount of stealing of jewellery, particularly in this town, will be greatly decreased.

I beg to move, Sir, that the Bill be read a second time.

THE HON. C. G. HOWELL: Your Excellency, I beg to second.

HIS EXCELLENCY: The question is that the Bill be read a second time.

THE HON. T. J. O'SHEA: Your Excellency, I entirely appreciate the purpose of the Bill, but I should like to raise the question as to whether it is advisable to admit bilingualism in the keeping of the books of such traders. It seems to me that the principle is one that should be guarded against, and that people in such trades as these are almost certain to have on the staff somebody who can keep their books in English; if not, they ought to have. I should like to raise the issue because it seems to me it is a question as to whether bilingualism should be allowed in the keeping of these books.

HIS EXCELLENCY: If no other Member wishes to speak, I will ask the Attorney General to reply.

THE HON. THE ATTORNEY GENERAL: I shall be very glad on the Committee stage to consider that point at as great a length as the hon. Member desires. I have no strong views on it, but representations have been made to me that a large number of the honest and decent gold- and silver-smiths here are Cingalese, who do not speak or write English, but have acquired a sufficient knowledge of Swahili to be able to keep books in that language. That is the reason for the suggestion I have just thrown out.

HIS EXCELLENCY: The question is that the Bill be read a second time.

The question was put and carried.

THE EXPLOSIVES (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of a Bill to amend the Explosives Ordinance.

By that Ordinance, Sir, certain powers, certain relatively plenary powers, were conferred on the Director of Public Works, and by sheer indifference no provision to allow any appeal from the decision by the Director of Public Works was embodied in that measure. It is manifestly right and only fair and equitable that there should be such a right of appeal, Sir, and so this Bill provides in the only operative clause in it that any person dissatisfied by any decision given by the Director of Public Works under the 1920 Ordinance may appeal to Your Excellency, whose decision shall be final.

I beg to move that the Bill be read a second time.

THE HON. C. G. HOWELL: Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is that the Explosives (Amendment) Bill be read a second time.

The question was put and carried.

THE NATIVE AUTHORITY (AMENDMENT) BILL.

THE HON. THE CHIEF NATIVE COMMISSIONER (MR. G. V. MAXWELL): Your Excellency, I beg to move the second reading of a Bill to amend the Native Authority Ordinance.

As hon. Members are doubtless aware, under the present Native Authority Ordinance, local Native Councils may be established by the Governor in Council in any area, and those Councils have definite functions, both in passing resolutions and in raising rates. Most of the present Councils function in areas where there are now definite Native Reserves. Recently—last year—it was found necessary to amend the Crown Lands Ordinance to enable Communal Reserves to be established. The reason for that was that it was found that certain areas of land were really owned in common by people who might be classed as natives and by Arabs, who of course are not classed as natives. It was therefore found necessary to define these as Communal Reserves.

Now, Sir, there is no organisation to which the Administration or Government can refer if they wish to consult the people as to matters relating to these Communal Reserves, because one cannot establish a local Native Council comprising amongst others people who are not natives. This Ordinance is designed to enable Communal Councils to function in such areas in exactly the same way as local Native Councils do at present.

Since the Bill was actually drafted, my attention has been drawn by the hon. the Provincial Commissioner, Coast, to the fact that it will probably be found desirable to establish Councils of a similar nature in areas where there is not as a matter of fact at present any Communal Reserve; that is to say, in areas such as Lamu, where there is a population partly of Arabs and partly of people whom we term natives, and for that reason I hope Your Excellency will allow the Committee stage of this Bill to be debated and taken on some other day in order that I may consult the hon. the Attorney General as to the exact wording of that clause.

THE HON. T. J. O'SHEA: Your Excellency, I can quite recognise the necessity for providing for these Communal Councils, seeing that we have already established at least one Communal Reserve. I am under the impression that we only have one such Reserve, and I would like to be assured that this is the case. But when it is suggested that the principle of establishing these Councils should be extended to areas outside the Reserves, I think there is a big principle involved, that should, I think, receive very careful consideration, and I do hope that the Government is not now going to spring it upon us merely as an amendment to this Bill. It is an entirely new principle, and I suggest, Sir, that it is one for which plenty of time should be given to consider it.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, there is one point I should like to be satisfied upon, and that is, Sir, do the Arabs who are concerned in these districts agree that they would like by a measure of this sort to be put under such a Communal Council, or have they not expressed any opinion on it.

HIS EXCELLENCY: If no other hon. Member wishes to address Council.

THE HON. SIR ALI BIN SALIM (LIWALI FOR THE COAST): Your Excellency, I am very sorry that the Elected Arab Member is not here, and so it is only fair for to say something now. I have known this was coming for a very long time. I knew it and I said to the Governor in the presence of the Chief Justice and the Chief Native Commissioner—I said, "This idea of putting the Arabs under the Chief Native Commissioner will not do." We were afraid of the same thing. Does the Chief Native Commissioner realise what this means to our religion?

If the Government of Kenya is going to endanger the right of every Arab who has land in a Communal Reserve—every Arab who has land in a Communal Reserve has got a certifi-

cate from the Government—is the Government prepared to take these certificates from us and put us under the Council, which gives no certificate whatsoever?

I am very sorry, Your Excellency, indeed, to see this Bill introduced. It is a Bill which hurts our feelings. It is a Bill we are going to fight. It is a Bill which, if it is passed here, will never be passed in England, and I must oppose this Bill completely.

THE HON. H. R. MONTGOMERY (PROVINCIAL COMMISSIONER, COAST): Your Excellency, there seems to be some misapprehension about this Bill. There is no alteration in principle whatever. It is proposed to give certain people outside the Native Reserves some measure of self-government. That is, however, definitely restricted by the Native Authority Ordinance. The Arabs of the Communal Reserve, the Wasim Arabs, have definitely asked to be allowed to have such a Council so as to be able to raise a rate, to manage those lands and their own affairs more fully. There is no question whatever of putting the Arabs under native administration. An Arab might well be the chairman of one of these Councils, or he might not. It is merely that they have the power to raise rates for the improvement of their own land and to make by-laws which have to be approved by the Governor in Council.

THE HON. SIR ALI BIN SALIM: In explanation, I would like very much for this Bill to be set back till next session in order to enable the local Member to bring a list of the Arabs who have land in such Communal Reserves. It would help hon. Members of the House to understand. Exactly how many people there are I am not aware, except that there are two, one of them myself.

THE HON. CONWAY HARVEY: Your Excellency, as there appears to be a very definite cleavage of opinion in regard to the merits of this measure, may I suggest, Sir, that the Bill be referred to a Select Committee and that that Select Committee be invited to take evidence from the people who are principally concerned. One of the advantages of sitting in Mombasa, Sir, is that we are extremely well placed to ascertain the views of those who are so directly concerned with the application of this measure. I would suggest that when that Select Committee is appointed, if it is, that Sir Ali bin Salim should be invited to state his case, together with any representative Arabs who desire to make representations to Government in this connexion.

HIS EXCELLENCY: The hon. Member has asked for a procedure which was in any case in the mind of Government to accord. It is proposed to refer this Bill to a committee—

I think a Select Committee is the best committee—and every opportunity will of course be given for all shades of opinion to make themselves heard before that committee reports.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I was going to ask if Government would agree to put the second reading back, otherwise we shall be committed to endorsing or opposing the principle at this stage. If Government will agree to that prior to the appointment of this Committee we shall be in a safer position.

HIS EXCELLENCY: It is impossible to refer a Bill to a Select Committee unless it has been read a second time. I think the hon. and gallant Member can save his conscience by voting against the Bill provisionally.

CAPT. THE HON. E. M. V. KENEALY: I take it the Official Members of Government have no consciences.

HIS EXCELLENCY: Order, order. That is a most improper observation. If no other Member wishes to address Council—

THE HON. THE CHIEF NATIVE COMMISSIONER: Your Excellency, I need hardly say that I have been taken completely by surprise, seeing that the Bill has been published in the usual manner in the Gazette, and I have had no notification whatever that there was any opposition to the Bill or any question. I should welcome the procedure to which Your Excellency has acceded.

HIS EXCELLENCY: The question is that the Bill be read a second time.

The question was put and carried.

THE TROUT PROTECTION (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of a Bill to amend the Trout Protection Ordinance, 1928.

Two years ago, Sir, it was confidently hoped that the fishing in the Colony was so super-excellent that visitors would be prepared to pay for the privilege of fishing comparatively high rates. Unfortunately, it has since been found, Sir, that relatively few visitors have in fact been prepared to pay the rates which have hitherto been in force, and so, Sir, it is proposed to reduce the visitors' licence figures very considerably—the annual figure from Sh. 200 to Sh. 100; the fortnightly from Sh. 80 to Sh. 40; and the twenty-four-hourly licence from Sh. 25 to Sh. 10. That is the sole object of the Bill, Sir.

With that short explanation, I beg to move that the Bill be read a second time.

THE HON. C. G. HOWELL: Your Excellency, I beg to second.

HIS EXCELLENCY: The question is that the Bill be read a second time.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I wish to welcome this amending Bill. When, Sir, the original Bill was brought in two years ago, I was one of the small minority who said that I thought the licence charges for visitors were exorbitant, and out of all proportion to the sport which was likely to be got with those licences. It has proved so, Sir. I think anybody will agree that to pay Sh. 25 a day to get a few trout is an exorbitant rate, and I am delighted to see the present rates, which I think are extremely fair and will probably bring in much more revenue than the higher rates.

HIS EXCELLENCY: The question is that the Bill be read a second time.

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Council resolve itself into a Committee of the whole Council to enable—

The Brokers (Amendment) Bill,

The Explosives (Amendment) Bill,

The Trout Protection (Amendment) Bill,

to be considered clause by clause.

THE HON. C. G. HOWELL: Your Excellency, I beg to second.

The question was put and carried.

The Council went into Committee.

In Committee:

THE BROKERS (AMENDMENT) BILL.

The Bill was considered clause by clause.

Clause 2.—Repeal and replacement of section 5 of the Principal Ordinance. Books of account to be kept by licensees.

THE HON. THE ATTORNEY GENERAL: This, Sir, is the clause to which the hon. Member for Plateau South took exception a moment ago. At the moment he is busy.

THE HON. T. J. O'SHEA: I beg your pardon, Sir. I was just endeavouring to ascertain the views of my colleagues on the subject, and find that on this side of the House we are unanimously in favour

of the principle of deleting bilingualism in this clause. In explanation, Sir, we see no reason why it should be so.

THE HON. CONWAY HARVEY: It may really have very far-reaching consequences. This may easily be regarded as the thin end of the wedge, and if it is conceded to this class of person I think it is almost inevitable that a very large number of folk will insist on keeping their books in Swahili.

THE HON. THE ATTORNEY GENERAL: I can only repeat what I have already said, Sir. The Commissioner of Police himself pressed very hard for the keeping of books in English and nothing but English. I then wrote to the Commissioner and said that, though sympathising with the object he had in view, I should be glad to have an assurance that such a provision would not put a number of perfectly honest gold- and silver-smiths out of business. His reply was that he feared that it would, but that all of them at least knew Swahili. There was no necessity for provision for Arabic, Gujerati or any other language. I have no personal knowledge of the matter, Sir. Whether my hon. friend the Provincial Commissioner, Coast, has or not I do not know, Sir, but that was the sole reason for inserting the provision.

THE HON. H. R. MONTGOMERY: So far as I know, in Mombasa it would make no difference if these words were deleted. If somebody from Coylon—a Cingalesse—can learn Swahili he can learn English. He would probably know English much sooner than he would Swahili; the type of Swahili he would learn would be a very poor one.

HIS EXCELLENCY: Perhaps Sir Ali bin Salim will give us his impressions.

THE HON. SIR ALI BIN SALIM: I think this is a matter which should be gone into. Personally myself I have no views, but I do know a good deal of these people. I agree with what the hon. the Attorney General has said. Everybody wants to live in this world; not only the rich people but the poor people as well. Even those people must live. They do not know anything else to write except Swahili. They do not know English. It is not fair to my mind, but it is a matter really which you should go into, because I do not know how many of them know English, but I do know there are some who do not know English. It is unfair, if they know of no other language except Swahili, for them to be told that they cannot do any of the work out of which they get their bread and butter because they cannot write the English language. This is a very difficult question. If they do anything wrong, it is for the Government to punish them, but to put them out of work altogether and leave them with nothing to do is not right.

THE HON. T. J. O'SHEA: Your Excellency, may I point out, or rather invite the attention of the House to point No. 1, from which they will see that the amount of bookkeeping that is insisted upon in English is of a most elementary description, and it could be done by a schoolboy or schoolgirl of ten or eleven years of age. These people are not called upon to keep intricate books of account; it is merely a day book making a record in English of their day-to-day transactions—a very simple affair—and I should think it is extremely unlikely to put any man out of business. The average shopkeeper in these trades is of the class which is perhaps not well acquainted with English, but the amount of trade he would be likely to do would be of such small dimensions that the bookkeeping could be done for him in half an hour by a schoolboy in the afternoon. Consequently, Sir, I fail to see that any possible injustice could be inflicted upon these people by the demand by the law that they should keep the books in the language of the country.

CAPT. THE HON. E. M. V. KENNELLY: Supporting that view, Sir, the necessity for keeping such books has been owing to the laxity of these people in the selection of their purchases; apparently they are

primarily at fault, and if the rectification of that fault imposes a slight burden upon them, I think it is better it should rest upon them than on the State generally.

THE HON. E. POWYS COBE: Your Excellency, I trust that any suggestion of introducing any other language than English in which books should be kept will not be adhered to. It seems to me that the whole idea of this Bill, the idea that it is going to safeguard the honest trader and make life more precarious for the dishonest, will be defeated unless we adhere wholeheartedly to English and English only.

On the point raised by Sir Ali bin Salim, I always listen with the greatest respect to things he says about the Coast and the trade of the Coast and so on, but I do think it is quite obvious that the amount of English knowledge which will be required by traders to keep the form of books set out in this clause is so slight, and the knowledge of English has spread to such a large extent through the whole of this country, particularly along the Coast, that I believe it would be very easy indeed to find people who are not occupied by day who could render the slight clerical assistance which the particular traders to whom Sir Ali bin Salim refers will need. I do not believe therefore, Sir, that there is any real grievance in this, and I shall be very sorry indeed if by pressing this point it was inflicting any grievance on an honest trader, but I believe they will suffer very little. On the other hand, I think adhesion to English and English only will have a very excellent effect in reducing the amount of crime in this particular class of trade.

MAJOR THE HON. H. W. B. ROBERTSON-ESTACE: Your Excellency, I entirely agree with the last speaker, and do not think any hardship will be put on these people by having to keep their books in English. As previous speakers have said, it is very easy to get somebody to come round in the afternoon and enter up the books properly in English; if they like to keep them in any other language they can do so, and then have them interpreted properly.

THE HON. SIR ALI BIN SALIM: If really the object of this Bill is only to stop thieving it must be remembered by the hon. Member that these people who receive the stolen property are not these people, the Swahilis, who have no money to buy. It is the bigger people; it is not the Swahilis. That is the whole trouble. It is these people who can write English who are the people who receive this property which has been stolen, such as a gold watch or a beautiful ring. No thief will go and steal a gold or diamond ring or an emerald, and then go to a Swahili to sell it. No Swahili would pay anything for it more than two shillings; he does not know the value of it. It is the other people who are doing it.

LE-CLERK THE HON. LORD FRANCIS SCOTT: Your Excellency, I understood from the hon. the Attorney General in moving the Bill that it was not the Swahilis who would be badly affected by this but have thought, if it was correctly stated by the hon. Member, that Sir Ali bin Salim's objections would not really come in.

THE HON. THE ATTORNEY GENERAL: Your Excellency, may I put very shortly what I think is the possible objection to the arguments very simple at first sight to employ a poorly-paid clerk. It is for half-an-hour's work in the afternoon. As the hon. the schoolboy Arab Member has stated, what we are after is the stopping of thieving. If we can get a broker to keep his own books, and there is either any other hand, if he employs a very poorly-paid clerk there is open to him the very obvious defence, "I do not read or write English myself. I told my clerk at once to make this entry, and I am awfully sorry he has not done it. I am not in a position to check his entries. He must have forgotten it." I am afraid that that is an argument which will be advanced, and it is an argument which a court is bound to

listen to sympathetically, and it may result, Sir, in a miscarriage of justice in a very large number of cases. What we are particularly anxious to do is to make a provision which will enable the broker himself to be made responsible for his bookkeeping, for the correctness of every entry.

May I say one word more, Sir? The suggestion has been made that bilingualism is an entire novelty in the Colony. That is not so, Sir. I would remind hon. Members that the language of every subordinate court is English or Swahili: that has been so for a very large number of years.

THE HON. E. POWYS COBE: There is only one point in answer to the hon. the Attorney General. Can he tell this Council that this use that has been made of bilingualism has really been a help to the administration of justice in this country. I should have thought the administration of justice in the court was so had and harmful that to experience of bilingualism in the court was a mistake and a retrograde step.

HIS EXCELLENCY: Hon. Members of this Council are aware that I attach very great importance to the maintenance of English as the language of this Colony. I have said so on many occasions, and for that reason I have some sympathy with the representations which have been made regarding this clause in the Bill. At the same time, I am certain that all hon. Members of this Council are anxious to avoid any unnecessary hardship to a poor and, so far as one knows, thrifty and industrious type of craftsman. As there is a very great conflict of evidence as to the effect of this clause, the necessity for it, and its relation to other provisions of the same kind in other Bills, and its relation to other provisions of this clause should I think it would be desirable that the discussion of this clause should be adjourned in order that the Government may consider the position.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to report progress. I beg to move that further discussion of the Bill to amend the Brokers Ordinance, clause 2, be adjourned.

The question was put and carried.

THE EXPLOSIVES (AMENDMENT) BILL.

The Bill was considered clause by clause.

THE TROUT PROTECTION (AMENDMENT) BILL.

The Bill was considered clause by clause.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Explosives (Amendment) Bill and the Trout Protection (Amendment) Bill be reported to Council.

The question was put and carried.

Council resumed its sitting.

HIS EXCELLENCY: Order, order. I have to report that the Brokers (Amendment) Bill, the Explosives (Amendment) Bill, and the Trout Protection (Amendment) Bill have been considered in Committee of the whole Council; that the Brokers (Amendment) Bill has been adjourned for further consideration, and that the Explosives (Amendment) Bill and the Trout Protection (Amendment) Bill have been reported to Council without amendment.

THIRD READINGS.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Explosives (Amendment) Bill and the Trout Protection (Amendment) Bill be read a third time and passed.

THE HON. C. G. HOWELL: Your Excellency, I beg to second.

The question was put and carried.

The Bills were read a third time and passed.

APPOINTMENT OF SELECT COMMITTEES.

HIS EXCELLENCY: I understand the following Select Committees have been agreed to:—

Select Committee to consider The Arbitration (Foreign Awards) Bill, The Bankruptcy Bill, The Deeds of Arrangement Bill, The Sale of Goods Bill, The Trade Marks Bill—

The Hon. the Attorney-General (Chairman);

The Hon. the Treasurer;

The Hon. the Commissioner of Customs;

The Hon. the Solicitor General;

The Hon. the Member for Nairobi South;

The Hon. the Member for Nairobi North;

The Hon. the Member for Plateau South.

Select Committee to consider the Prisons Bill—

The Hon. the Attorney General (Chairman);

The Hon. the Solicitor General;

The Hon. the Member for Kikuyu;

The Hon. the Member for the Coast.

Council adjourned to 9.30 a.m. on Monday,
14th July, 1930.

MONDAY, 14th JULY, 1930.

The Council assembled at 10 a.m. at Government House, Mombasa, on Monday, 14th July, 1930, His Excellency the Governor (LIEUTENANT-COLONEL SIR EDWARD WILLIAM MACLEAY GRIGG, K.C.M.G., K.C.V.O., D.S.O., M.C.) presiding.

His Excellency opened the Council with prayer.

ADMINISTRATION OF THE OATH.

The Oath of Allegiance was administered to—
Seymour Christmas Bennett, Acting Director of Public Works.

MINUTES.

The minutes of the meeting of 11th July, 1930, were confirmed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the table:—

By THE HON. THE COLONIAL SECRETARY (MR. H. M.-M. MOORE):

First Interim Report of the Colonial Development Advisory Committee.

First Supplementary Estimates, 1930.

Explanatory Memorandum on First Supplementary Estimates, 1930.

By THE HON. THE COLONIAL SECRETARY ON BEHALF OF THE HON. THE TREASURER:

Financial Report and Statement, 1929.

NOTICE OF MOTIONS.

THE HON. T. J. O'SHEA: Your Excellency, I beg leave to give notice of the following two motions:—

"That in the opinion of this House a careful inquiry is necessary before any decision is made to reduce the present standard of education at the up-country European Schools and to determine the organisation and scope of the new Kabete Secondary School, and that the Report of such inquiry be laid on the table before the Education Estimates for 1931 are considered."

"That in the opinion of this House the Wade-Mayer Report on the organisation of Administrative Offices emphasises the urgent necessity for reorganisation with a view to decreasing cost and increasing efficiency."

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I beg to give notice that I shall move:

"That no commissions, committees or boards dealing with matters of public interest including in their personnel any Elected Member should be appointed without reference to and approval of their representative by the Elected Members."

HIS EXCELLENCY: I should say to the hon. and gallant that in giving notice of a motion he cannot assume that he is to be allowed to move it. I must have time to consider whether it is in order or not.

CAPT. THE HON. E. M. V. KENEALY: Yes, Sir, of course.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I beg to give notice that I shall move the following motion:—

"That the First Supplementary Estimates, 1930, be referred to a Select Committee of Council."

HIS EXCELLENCY: I have had notice of a motion from the hon. Member for the Lake regarding the Customs duty on coir matting, carbide and common salt. I shall be glad if he will allow that motion to stand over for the present, as it involves consultation with the Governments of the other Territories; I have already communicated with them.

THE HON. CONWAY HARVEY: Under the circumstances, Your Excellency, I shall be only too pleased to do so.

ORAL ANSWERS TO QUESTIONS.

NON-EUROPEAN HOSPITAL COMMITTEE.

COL. THE HON. W. K. TUCKER asked:—

"What are the Government's intentions in connexion with the proposals made by the Non-European Hospital Committee, viz.:—

- (a) Reduction of the present hospital fees to non-official Europeans;
- (b) Additions and alterations to the present building to provide for extra accommodation;
- (c) To provide for the appointment of a board of control, consisting of officials and non-officials?"

THE HON. THE DIRECTOR OF MEDICAL AND SANITARY SERVICES (DR. J. L. GILKS): The proposals made by the Non-Official European Hospital Committee have been received and will be carefully borne in mind when considering the general question as to the lines on which the existing European Hospital can be improved and extended, a matter which has been actively engaging the attention of Government ever since His Excellency's statement to Council that the proposals for a grouped hospitals scheme in Nairobi had been abandoned.

COAST FISHERIES SURVEY.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE asked:—

"What early and concrete action, if any, Government proposes to take regarding the Coast Fisheries Survey?"

Whether the sum of £5,000 approved by this Council in connexion with this matter in this year's Estimates is likely to be expended or whether any assistance may be expected from the Colonial Development Fund?

Has Mr. Graham's report on the Lake Fisheries been yet received; if so, has any action been taken on it?"

THE HON. THE COLONIAL SECRETARY: Government proposes to take no immediate action with regard to a survey of Coast Fisheries.

Government does not propose to expend the £5,000 approved by this Council in connexion with this matter, nor has assistance been asked for under the Colonial Development Act.

Mr. Michael Graham's report on his investigation of the fisheries of Lake Victoria was received in March last. As early as June, 1929, Rules under the Fish Protection Ordinance were promulgated to give effect to a recommendation by Mr. Graham regarding the type of net to be used. Government has under consideration the promulgation of further Rules to regulate the method of using nets. It is agreed that further research is necessary, but Government is of opinion that this should be undertaken by a Joint Fishery Authority regarding the establishment of which the views of neighbouring Governments are being sought by the Secretary to the Governors' Conference.

UNEMPLOYED ARABS.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE asked:—

"In view of the number of unemployed young educated Arabs, whether Government cannot find employment for these loyal subjects of His Majesty and at a salary commensurate with their abilities?"

THE HON. THE COLONIAL SECRETARY: If the hon. Member will assist by giving particulars of any educated young Arabs who are unable to secure employment to the Provincial Commissioner, Coast, the Government will be prepared to institute further inquiries into the matter.

The information at present before Government is to the effect that the number of young Arabs who are sufficiently educated to prove useful clerks in Government or commercial service is not large.

HIS EXCELLENCY: I understand the Local Government (Rating) (Amendment) Bill (No. 2) is postponed until a later date.

THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MAC-GREGOR, K.C.): That is so, Your Excellency.

MOTIONS.

NATIVE POLICY.

THE HON. CONWAY HARVEY: Your Excellency, I beg leave to move the motion standing in my name.

As you, Sir, so truly stated in your opening address to Council, the two recent White Papers have come as a severe shock to the Europeans in Kenya, and they have added very considerably to the prevailing anxiety due to adverse climatic conditions and bad markets.

The objects of this motion, Sir, are twofold. In the first place our fears may be allayed to some extent by the assurance from Government, which I trust will be forthcoming, and, secondly, Elected European Members consider it desirable that an opportunity should be created for an expression of opinion by them on the Memorandum on Native Policy in East Africa.

A literal interpretation of the note at the beginning of the Memorandum appears to me to indicate a serious onslaught on the rights of this House and the Kenya constitution generally; as officers administering the governments of these territories are enjoined to take immediate steps to ensure that the policy in regard to native administration in these territories is brought into strict conformity if in any respect this is not at present the case. That is laid down in the Memorandum from the Secretary of State—quite a new departure, quite an innovation in Colonial procedure. It must be admitted that the Secretary of State enjoys a very strong constitutional position, Sir, which, so far as I am aware, has never been challenged by Elected Members or the unofficial

community at all of Kenya, but this House, Sir, has been endowed with certain rights and privileges and in my humble opinion is not unreasonable in asking that no change shall be made to measures which have been introduced by it without consultation and its approval being obtained to any such changes. I represent many who came to Kenya on the express invitation of Sir Charles Eliot on the very clear understanding that European interests were to be paramount. I dislike that word "paramountcy," Sir, as I consider that equal opportunity should be created for all loyal citizens to achieve whatever position their capacity and worthiness may entitle them to. I share Your Excellency's distaste for an ever fluctuating policy and would urge the importance of a definite and steadfast adherence to the principles on which so many Colonies have been successfully developed. In spite of the somewhat violent fluctuations of policy, the success that has attended the efforts of the Kenya Government, so far as native advancement is concerned, is really remarkable. There is no need to elaborate these, as everyone who knows anything at all about local conditions is fully aware of the enormous improvement in the condition of the natives all over the country as the result of wise administration and a sound health and education policy. Local Native Councils, which have always been warmly supported by Elected Members, have contributed in no small measure to this happy result. The fact that Native Councils to-day hold surplus balances to the tune of something in the region of £100,000 indicates quite clearly the flourishing condition of native society in Kenya, and I do, Sir, most earnestly suggest that we should be very well advised to leave well alone in connexion with this matter.

Now, Sir, some of our atrabilious critics at home miss no opportunity of challenging the honesty of Kenya settlers and appear to regard them as dangerous unprincipled pirates from whom the natives must be protected. They appear to harbour the delusion that as soon as an Englishman leaves England for the purposes of settling in the Colonies he immediately sheds all principles of justice and fairplay and decency and other characteristics which are inherent in every Englishman. That, Sir, is nonsense, and I maintain that the settlers of Kenya have made very large contributions to native prosperity.

In my opinion, Sir, the British Government should recognise its trusteeship for the white as well as for the native races; the defence of the British Empire and its development is entirely dependent on the white races. If the white races are allowed to own land and develop it, they are great demonstrators, teaching the natives proper agricultural methods.

If natives are not taught industries nor how to develop their land they impoverish it by constant cultivation, nothing being returned in the shape of fertilisers, and with the inevitable erosion which takes place small deserts all the time are being created in many of the Native Reserves of Africa. The cry always is, Sir, that the natives require more land, but I do suggest in all seriousness that if these methods are allowed to continue the native can never have sufficient land; that, Sir, is clearly impossible. I feel confident, Sir, that no one who knows the facts will challenge my assertion that European settlers are beneficial to the natives in every way, and I do strongly support the claim made by Lord Cranworth recently that they have done more for Kenya natives than all the Commissions, Committees and White Papers together.

Disparaging comparisons are often made, Sir, between the policy of Kenya and that of a purely native country like Nigeria, but what are the facts? The latest records available inform us that the trade per head of the population in Nigeria, which is a very old established country, and a very populous country, is Sh. 35; while in Kenya it is no less than Sh. 57 per head of the population. These figures, in my opinion, testify eloquently to my case that the best results cannot be secured without the civilising influence of Europeans. I also understand that the gross receipts per mile of the Kenya and Uganda Railway are very greatly in excess of those in the majority of purely native countries.

I do not intend, Sir, to embark on a detailed criticism of this remarkable Memorandum on Native Policy, which appears to me to take very little account of the varying conditions prevailing in the Territories concerned, but as the policy therein adumbrated is not altogether within the purview of the Joint Committee, I think it very important indeed that a well-reasoned protest should be lodged with the Imperial Government at the earliest possible moment. In this connexion, Sir, it is not easy to reconcile Dr. Drummond Shields' reply in the House of Commons on the 15th in the following terms: That the White Paper on Native Policy would not be considered by the Joint Committee of both Houses which was being set up to deal with Closer Union—with paragraph 7 of the White Paper itself, which states quite clearly that His Majesty's Government contemplate the setting up of a joint committee of the two Houses of Parliament for the purpose of further examination of various matters arising out of that Report, and will no doubt consider this aspect of Native Policy. In the circumstances, His Majesty's Government does not think it desirable to anticipate the conclusions which they may reach after they have seen the Committee's Report. Another inconsistency which must add to the difficulties of

the officers of the Governments administering these Territories occurs in connexion with the so-called trusteeship. The White Paper of 1923 states quite clearly that they are unable to let us share this trust, while on page 5 of the present proposals it is stated that both the Governors and the Councils are regarded by His Majesty's Government as sharing in the responsibility for native welfare. Nevertheless, little trust appears to be reposed in the man on the spot, as even the High Commissioner, when appointed, is to be a mere local correspondent of the Secretary of State.

Everyone reading this Memorandum, Sir, must be struck by the fact that a very large number of the recommendations and the principles laid down have been in force in Kenya for a large number of years, and no credit is given to the local government for its statesmanlike efforts in connexion with native land, local native councils, health and educational improvements in the Reserves, to say nothing whatever about agricultural instruction, reafforestation and roads, all of which have received a great deal of attention during the last few years.

In view of these achievements, to my mind, it is utterly wrong from every point of view to relegate the white man in Kenya to a position of inferiority and impotence. And here I should like to repeat what has been said many times already, that the Europeans of Kenya have never demanded the right to control the destinies of African natives. They have always accepted the principle of final reference to a higher authority, but they do, Sir, claim the right to be consulted.

I join issue absolutely with the proposal that natives should be allowed to grow such crops as they think most profitable, and ask Government to be guided by the unfortunate situation which arose in the Federated Malay States at the time of the last rubber boom, when, at very great costs, food supplies had to be re-established, and, at very great cost to the State, people were just kept from starvation and industry generally from languishing. Now, Sir, with famine almost every year in some part of Kenya, we all know perfectly well what would happen if constant pressure on many native tribes to conserve their food supplies was in any way relaxed; and in this connexion, Sir, it may be appropriate to point out that hardly a day passes without the European farmers of Kenya being asked to supply food for famine relief in Native Reserves. On this subject, Sir, I think perhaps I cannot do better than quote that distinguished agricultural imperialist, Sir Daniel Hall, who said last year in the report of the Agricultural Commission, after hearing all the arguments both for and against:

"From any economic view of the policy of the Colony as a whole, it would be the height of unwisdom to imperil the great existing industry, which annually pays over half a million pounds in wages to native labour, in order to allow a small number of advanced natives to earn the greater cash return per acre derivable from coffee as against other crops. The gain to the natives from wages paid in the coffee plantations is assured. The all-round profit they would derive from coffee-planting is doubtful, for many of the plantations would undoubtedly have to be grubbed out by order because of disease, whereby the owners would lose the results of many years' previous cultivation."

Now, Sir, in the interests of the Empire, the Colony and the natives themselves, it is vital that their agricultural activities should be wisely and carefully controlled by those experienced Senior Commissioners who have secured the trust and the confidence of the natives in so marked a degree. The policy laid down in this White Paper, which aims at recentralisation rather than decentralisation, and which fails to recognise what has been done by the local government and local settlers, which imposes an inferior status on the most progressive element of society, is inevitably doomed to failure, and cannot be supported.

Your Excellency, I beg to move the motion standing in my name.

THE HON. T. J. O'SHEA: Your Excellency, I have much pleasure in seconding the motion. I would remind this House, Sir, that in discussing questions of native policy during recent years, it has always been emphasised both on the other side of the House and on this that it is absolutely necessary in the interests of the natives themselves and in the interests of the country as a whole that questions of native policy should be raised above the level of party politics. In fact, Sir, during recent years we have taken to ourselves the credit of having succeeded in raising this all-important question above the plane of party politics. And now we find, Sir, that it has been debased to that low level and that those who should be primarily responsible for maintaining the higher standard have thrown out a challenge that will make it the most contentious matter of party politics to be dealt with for some time past.

We have held, Sir, and in our opinion we have been largely guided by yourself and other high officers of Government, that on questions of native policy the most careful consideration should be given and the very soundest advice sought before any public pronouncement was made. And yet, what do we find? We find that none of the responsible

officers of Government have been asked to express any opinion on this document before it was made public, accompanied by an edict that it should be put into operation immediately. So far as we have been able to ascertain, Sir, no advice has been sought on this side of the water, and it is due entirely to the advice tendered by people overseas that this White Paper has been drawn up, extremely serious though it is.

The motion asks that no attempt should be made by Government to implement this White Paper in so far as it necessitates alterations in our legislation without the consent of this Council.

We do that, Sir, because we consider it absolutely necessary—that opinion on this side of the water should be sought in this all-important matter, and that any changes that have to be made should be only by the general approval of the Legislative Council of this Colony. Now, Sir, we hold that view because we consider it essential to the future welfare of the native peoples that any native policy adopted should have that general consent. It is agreed by all who have studied the problem that that is an essential requisite, and it is a big disappointment to us indeed that the honesty of that view could not be recognised in high quarters.

We take very strong exception to this edict, Sir, because of the spirit in which it is composed, and the spirit in which it is being forced upon the country. It is frankly antagonistic to all the legitimate aspirations of the white colonists of Kenya. It is frankly contemptuously distrustful of the official side of the government of this country, and it is absolutely insincere. The insincerity of that document, Sir, is probably the feature of it to which I take the strongest exception. One can find excuse for the fanatic on the grounds of his sincerity, but in this case one cannot even find that excuse for the authors of this Paper. On the one hand they endeavour to flout the aspirations of the European colonists of Kenya, and again they endeavour to placate the same people by a pat on the back because they are on occasions consulted in matters of policy in this country. They endeavour to hold the local Government of Kenya responsible for native policy, and on the other hand they make an effort in this Paper to take away from the local executive of Government all responsibility for the future native policy of the territory.

Perhaps the strongest evidence of its insincerity is that it should so subtly endeavour to convey to those not familiar with the facts that it introduces a number of new principles of native policy in these Territories, whereas in actual fact these principles have been the established practice of policy for a number of years past. In so far as it does endeavour to

establish new principles, these new principles are open to question; in so far as it expresses as the policy of government in this country that absolute justice must be meted out to the native peoples, that there must be no question of exploitation, that every possible encouragement must be given to their intellectual and economic advancement—in so far as they are the principles of this White Paper, they are principles that have been carried out in Kenya and have been accepted by all parties in this country for a period of years past. It is insincere in a self-contradictory effort to be impartial to all communities here. In one portion it endeavours to convey that it is equally the responsibility of Government to safeguard the interests of all communities, and again in another portion it definitely lays down that the interests of the native people are to be paramount to the interests of any other community. Such a contradiction could only be expounded from a heart that was insincere.

It is, I think, also, Sir, open to the strongest possible objections because of its lack of statesmanship. One would have expected statesmanship coming from that quarter, but I contend that this document is most lamentably lacking in it. It has committed the most extraordinary mistake on the part of any people endeavouring to administer a great State in that it has made its decisions first and sought grounds to justify those decisions afterwards. Although within the last few days we are given to understand that this Paper itself it distinctly lays down that any new principles that it enunciates will be subjected to examination and that the final decision of the Imperial Government will not be made until such further examination has been given to it. Now, I suggest, Sir, that that is a most unstatesmanlike act, all the more so because it deals with a people who are not in a position to understand the extraordinary ways by which civilised governments achieve their ends. This Paper has been disseminated among the native people; they are not in a position to understand all the fine points of it, and all the things that may happen before it does actually become the policy of the Government in this country. It is also most unstatesmanlike in that it has antagonised those whose co-operation will be absolutely essential to the achievement of the purposes aimed at; instead of seeking, as it should have done, the greatest possible co-operation on the part of all who would be associated in the carrying out of that policy, it has deliberately endeavoured, for purposes unknown to me, to antagonise those who will be most strictly responsible for carrying out that policy. Not only has it deliberately antagonised the unofficial elements of this House and the body of opinion that stands behind us, but it has, I contend, greatly undermined the confidence of the official side of this House in the ability of their seniors overseas to direct

our native policy in this country. I cannot imagine that I have overstated the case in saying that it has undermined the confidence of the executive government in this country by the manner in which it has dealt with this all-important question.

It has also, Sir, enunciated certain lines upon which that policy is to be carried out in direct contradiction to the lines of policy that have, only recently been agreed upon after the very closest examination. Now, Sir, as this House was very recently in debate, if there is one thing more reminded very recently to aim at in the government than another that it is essential to aim at in this Paper one of native peoples, it is continuity, and yet in this Paper one of the most obvious faults of it is that it has no consideration for questions of continuity. Only six months back it was definitely decided that in the interests of the native peoples very large areas of the country should be set aside for their benefit and use for all time, and it was agreed in so doing that other communities should be free to go on with developing the other remaining portions of our national heritage. Now, it is suggested that that should not be, that in addition to the large areas specially set aside for the native peoples further portions of the balance of our landed assets should be indefinitely held up in case in a long period of time it should be necessary to devote further of them to the exclusive possession of the native peoples.

Turning to the Paper itself, Sir, there are a few cardinal points in it to which I should like to draw more attention.

It is a remarkable thing the part that phrases have played in the development of civilised peoples. I suppose it is hardly an exaggeration to say that the success of the French Revolution was more largely due to the phrase; "Liberty, equality and fraternity," than to any other single cause. It worked on the minds of the people to such an extent that it enabled them to achieve things that otherwise would have been impossible, and one must not shut one's eyes to the possibility of this phrase about "paramountcy of native interests" having a very powerful influence on the future policy of this country and upon the development of all its interests. That being the case, Sir, it is highly advisable, before we get any further into the bog, that we should definitely make up our minds here and now as to what we mean by it. It is obvious from this White Paper that the people on the other side of the water have no clear idea of what they mean by it. It is the most unfortunate that the original user of the words in the 1923 White Paper did not give some definition, "however vague, of what he meant." But we, Sir, have a very clear idea of what we mean; and as we have accepted the principle of the paramountcy of native interests, it is very necessary

that we should say what we mean by it. To me, Sir, and to many with whom I am associated, that term means that it is and must always be the paramount duty of Government—using that term to cover all the elements that go to make up our Government—to maintain a free field for the intellectual, moral and economic development of the native, to recognise that as a backward race the native must have the paternal care and encouragement of Government in developing himself to the limit of his inherent capacities, and in providing an environment that will give those inherent capacities full scope to develop:

That definition, Sir, does not involve any questionable part of the native. Neither does it connote any opinion that the native is definitely restricted in his capacity to develop. It is in full accord with the mandate of the League of Nations, which to-day is used as a standard by which to justify our activities in a country in which there are backward races.

The interpretation of the League of Nations is "that the well-being and development of such peoples form a sacred trust of civilisation," and that the government of such territories "will promote to the utmost the material and moral well-being and the social progress of the inhabitants of the territory."

I contend, Sir, that our definition of the term "paramountcy of native interests" conforms strictly in the letter and in the spirit to the highest ideals actuating civilised peoples to-day in their attitude towards backward races, and it is in strict conformity with the ambitions of the Imperial Government itself; but I admit that it is not in strict conformity with the most extreme and most unjust definition of the term given of it by this White Paper. It does not connote, Sir, so far as we are concerned, that the interests of what have been called the immigrant races are to be subordinated to those of the native peoples; it does not connote that our national heritage is to be held up in the interests of these peoples. On the other hand, it allows the progressive development of all the material assets of these territories in the interests of civilisation and of the native peoples, and it does not imply that the legitimate aspirations of the colonist community are to be held up indefinitely in the hope that at some time in the distant future the native peoples will be capable of sharing those responsibilities in the government of these territories.

In justification of the very strong attitude which we adopt towards this White Paper, I would remind the House that after long negotiations the Imperial Government in 1927 definitely enunciated as part of its policy for the future govern-

ment of these territories that the colonist community should be actively associated with the Imperial Government in the administration of the trusteeship.

Now, Sir, we base our attitude on this question very largely on that view because we feel confident that the trusteeship cannot be administered without our close co-operation. It may have been possible to speak of us ten or fifteen years ago as a handful of planters and settlers. It may still be possible to speak of us as immigrant communities, but the fact must be recognised that we have established ourselves in a position in this country, from which there is no going back, that the future development of these Territories is based upon the ever-increasing activities of the European community in its national life, and it is absolutely essential that this principle and policy should be carried out, and that we should be more closely associated with its activities. Having said that, Sir, I should like to make it quite clear, as has also the hon. member, that we do not and never have questioned the dictum that the ultimate responsibility must lie in the hands of the Imperial Government. We repeat that, because efforts have been made to convey the impression that we do question it. Most decidedly we do not. We are quite content that for a period of time, which need not concern us politically, that responsibility should remain in the hands of the Imperial Government, but we do think that it is equally necessary that the people here on the spot should be actively associated with the carrying out of that responsibility. That the authors of this White Paper themselves, despite their antagonism to us, recognise the necessity of that, is borne out on page 5 of the White Paper:

"His Majesty's Government accordingly wish to make it clear that they regard the unofficial members of the Councils, whether elected or nominated, as equally responsible with the Government members in respect of the advice which they may tender to the Governors upon native affairs."

That statement in that particular context I can only liken to the kiss of Judas. It asserts that we are equally responsible with the other elements of Government for native policy. That is the effort to placate the opposition which it was obvious would be forthcoming to this Paper—the last part of the Paper. The whole intention of it is that our association with Government in the administration of this trusteeship should be confined to as narrow limits as possible, and that every possible restriction should be placed upon such participation on our part. Sir, seeing that we are regarded with such suspicion by the authors of this Paper, and seeing that our motives have been impugned, I think it is only right

that we should ask what are the motives that actuate the Imperial Government in having accepted the big responsibility of administering these territories and these native peoples? I do not question for one moment, Sir, that some of the motives are founded upon the highest ideals, but I think it is vain to deny that there is also a lower and more selfish aim in view. Never in the history of the world have empires undertaken the administration of backward peoples without some self-interest. To-day in these matters civilized races, more particularly those of Western Europe and America, are actuated by ideals that were not current a decade or so ago. I admit that, and I am proud to claim that we too are actuated by those same ideals, but, Sir, it would be vain to deny that there is also a practical, material and selfish side to the interest of the Imperial Government in these territories. It has a very close interest in the economic development of these territories, and I am afraid I must claim that the authors of this document have been acutely conscious of the economic side of their responsibility. I also make so bold as to assert that their views on the economic side have been unduly influenced by the trend of development of the Colonies on the West Coast of Africa. This may be put shortly by the idea that by expending a certain amount of money on the educational and medical advancement of native peoples they can become a market for vast quantities of the unwanted productions of Great Britain, and they appear to be despondent that these territories can be of any great economic value to the Empire within a short period of time unless their economic policy is based upon ultra-rapid native development. We hold other views, views that in my opinion are not so shortsighted, are not so selfish. We recognise that, however desirable it may be to increase the economic possibilities of these markets, it must be a slow process unless in so doing future native development is to be jeopardised. To speed up his intellectual and moral development beyond his capacity is, in my opinion, the greatest crime you can commit against the native. We are bounded down as not wanting to do sufficient for the native because we accept that as an axiom of our policy, but if you endeavour to hasten his development too rapidly you will do more harm than good. I personally believe that there is sounder justification for the long-sighted view we take of this question than for the shortsighted one taken by the authors of this White Paper.

Again, it is obvious that the authors of this Paper think it possible to stimulate the intellectual and moral advancement of the native so rapidly that in the course of a period of time of which we may at present take account he can participate in the intellectual life of the Colony. Now, Sir, I regard that

as an altogether false assumption. I believe it is due to thinking in terms of mechanical industrial development, whereas in actual fact it should be thought of in terms of biological development. I have not perhaps that smattering of knowledge of anthropology which will form part of the equipment of the new official, but my view on the subject is not based upon my own ignorance. It is based upon the view of those who are much more competent to express an opinion, and I think, Sir, there is every justification for us in contending that it is most unwise to jeopardise a settlement of the problems of to-day and to-morrow by consideration of the problems that may arise many generations hence.

Finally, Sir, my strong opposition to this White Paper, in so far as it does embody any new principles, is that it is marked by ruthlessness, and the attempt to put it into operation above the heads of constituted authority in this country is based upon a greater recklessness; I cannot conceive of anything more calculated to provoke antagonism to the Government in this country by the settler community than the recent announcement by the Under-Secretary of State for the Colonies that this Paper is to be put into operation without waiting for the advice of His Majesty's Government in this country, without waiting for consideration of it by the Joint Committee which has been set up to consider the question of Closer Union, and without waiting to give the colonist community an opportunity of clearly understanding what is the intention of its authors. The reactions on our part to that attempt, Sir, are likely to be serious. For some years past the strongest possible co-operation has taken place between all the elements of government in this country; as a result of which our problems, major and minor, have been settled in a spirit of friendliness and a mutual desire to find solutions for those problems in the best interests of this country, and we have pledged ourselves that we would do everything in our power to co-operate with the Government in working out a native policy which would be in the best interests of Kenya in all its circumstances. But, Sir, if this is going to be the response to that attitude on our part, then I can only say that Government cannot complain, and the Imperial authorities cannot complain, if they find in this territory an altogether different attitude towards them in the future.

HIS EXCELLENCY: The question is—
 "This Council would welcome an assurance by Government that no alteration will be made in the Law of the Colony governing Native Policy without the consent of the Legislative Council."

CAPTAIN THE HON. E. M. V. KENYALY: Your Excellency, I feel that Government will find no difficulty in accepting this motion. Nor is Government in a position to affect any measure of surprise at the motion, or, I suggest, at the note to the Memorandum which has produced this motion; because, after all, it is impossible to dissociate Government in this country from a certain degree of responsibility in the production of this note. Government has attempted, by confessing to a certain degree of surprise, regret and pain, to dissociate itself from this particular Paper and the particular note that was prefixed to that Paper. But, Sir, the reason that Government has no justification for the suggestion that it is surprised at this is that Government is to a certain extent responsible. Government policy in this country in regard to native control and development has in the past been very ill-defined. We on this side of the House have attempted far more clearly to define that policy, and continually we have been reminded by Government that it was probably ill-advised to get a very clear definition of that policy.

We have seen that Government's opinion in this matter has been proved to be wrong. That partly is due to our constitutional position. We have not been in a position to formulate a definite policy. Although we have urged formulation of that policy, that policy has not been formulated by the local Government, and it has resulted in the creation of this unpleasant situation which we are now attempting to disentangle.

After all, when one deals with the motion in its terms, one finds that, we on this side of the House are asking that there shall be no alteration in the laws without reference to the legislative bodies in this country. Laws define the boundaries of the application of policy, and the mere fact that so much alteration of the law would be required demonstrates the ill-definition of that policy in the past.

Now, Sir, if we have a weak case in this country for a greater control of our native policy—I think it has been demonstrated by the last two speakers that we have a strong case; and Government with its acumen and clear analysis of the position should be able to put up a far stronger case than we on this side of the House are called upon to do—we shall have to travel a lot of ground, because members on this side of the House will be expected to deal with all the points which arise in the minds of Government on the other side. It is going to be a long process, because members on the other side of the House are a thoughtful collection of men.

Now, Sir, what proportion of the importance of the administration is represented by native policy in Africa? It is suggested that it is more important than anything else. I question that. I think native policy probably merits the recognition of one-fifth of the major matters which direct policy generally and no more. A fifth, I think, is a correct apportionment of its importance.

Now, Sir, there have been attempts in the past to discredit thought and opinion and action in this country. There has been a certain amount of bickering and smallmindedness in playing off one small section of the community against the other. I suggest there is no need to do that. We can adopt a broader view, and a more reasonable and consistent policy, and that is that we can rely on the general support of opinion in this country opposing the principles that are before us. In the past we have been rather prone to justify ourselves periodically, to put forward our case and to demonstrate that we have some qualifications for the claim that we make. I think that that time has now passed. We should insist that ultimately we are British citizens in this country, and because we are British citizens, and because we accept the responsibilities and claim the privileges of British citizens because we are on the spot, we mean ultimately to control the destiny of Africa. Africa is a rather whimsical goddess and she is indifferent to and unswayed by the interference of jumped-up people. Her destiny is controlled by bigger things than that. It may be by Imperial considerations, and we sincerely believe that it will be. But anything of minor significance, anything based on pettiness, intolerance or sectional interests will have no permanent effect. Of course, the suggestions in this Paper would be swept away by a large mineral discovery in Africa. A large mineral discovery may be made and I firmly and sincerely believe that a large mineral discovery will ensure it. We shall then look back with a contemptuous smile upon the absurdities of the past and the suggestion that we were frightened by suggestions which had no real Imperial significance and had no basis in relationship to the realities of the moment.

After all, Sir, I have dealt with the basis of things and I mean to continue on that line. What is the fundamental basis? The fundamental basis is that we are British citizens and that we have arrogated to ourselves, and rightly arrogated to ourselves, the right to control the destinies of people who are unflitted to control themselves. And surely it is logical to confess that we have that right, that we have taken it for ourselves. It is we who should apply that right. We should not wait until that right is recognised. We should take hold of it in its earliest stages. We should say: "We know what

we are going to do and we are going to apply it". That has been the policy of the British Empire in the past. The policy to-day is a policy of tolerance. What we want is a policy of tolerance based on strength and not weakness. What we find to-day is that the policy of the Empire is a policy of tolerance based on weakness and instead of acquiescing in it we mean to challenge it.

The fundamental flaw that one sees in reading this memorandum on Native Policy is that there appears to be no desire on the part of the writers of the document to develop character in the African native. That is a word that is not mentioned, and because it is not mentioned one sees the degradation—no, that is not the right word; I withdraw that word—one sees the insincerity and the ephemeral character of the suggestions made to support this policy.

THE REV. CANON THE HON. H. LEAKEY: Your Excellency, I regret that I shall not be able to vote for the motion exactly as it stands. I fear it would, perhaps, at some time, hold up and interfere with an alteration which, in my humble opinion, might be of advantage for the welfare of the natives. In that case I should find myself partly responsible for this for having to-day voted for the consent which held it up.

At the same time I cannot approve of a policy which would allow of changes, perhaps very drastic ones, being made from outside without their general effect upon the Colony, and every section of it, being carefully considered by those on the spot, that is to say those whom it will affect, and their representatives.

I fear that such a policy would take away the chance of what I always have been, and still am, most anxious to see ever present in connexion with all our legislation about native affairs. It was most apparent at the first consideration of the Native Lands Trust Bill. That most important factor is a complete co-operation between all parties in regard of every measure for the welfare and uplift of the natives.

I further fear that if things are done right over the heads of the members of this Council without their being given so much as the opportunity of considering them, only bitterness will be engendered, and none of that goodwill which is so much needed for the happiness of all concerned, and the prosperity of our Colony.

I still further feel that it is some slight upon this assembly that important matters affecting native rights should be introduced and carried through without so much as a reference being made about them to its assembled members.

I ask permission therefore, Your Excellency, to propose an amendment to the motion before us. I do not know if it will find a seconder. I have conferred with no one about the matter previously, but I hope it may. It would, I suppose, be presumption on my part to hope that the Hon. Member for the Lake would withdraw his motion, with Your Excellency's permission, and that of his seconder, so as to allow my amendment to become the substantive motion.

The amendment I wish to move, Your Excellency, is as follows:—

"This Council would welcome an assurance by Government that no alteration will be made in the Law of the Colony governing Native Policy without the opportunity being given of a full debate upon the matter by the Legislative Council."

HIS EXCELLENCY: The hon. Member, Canon Leakey, desires to move that the motion be amended by deleting all words after the word "without" and substituting the words "the opportunity being given of a full debate upon the proposed alteration by the Legislative Council". The motion seems to be a slight diminution of the existing motion, otherwise it would amount to practically the same thing.

Does any hon. Member rise to support that amendment?

(No hon. Member rose.)

In that case Council will resume the debate on the main motion.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, in supporting the motion which, as a matter of fact, I presume, Sir, is almost a redundant motion—I gather that no change in the law in this Colony could be carried out without the consent of the Legislative Council except by Order in Council from home—I do support it, Sir, because of the implications conveyed in the note which prefaces this Memorandum on Native Policy. I do, Sir, take the very gravest exception to that note and the spirit which emanates from it. It has already been explained by other speakers but it seems to me that it is a deliberate insult to Your Excellency and the other officers administering neighbouring territories that the Colonial Office—and I do not think it is really the Colonial Office; I do not believe this emanated from the officials of the Colonial Office for a moment—that the politicians at present in power in Great Britain should law down what they consider is the right thing on Native Policy and should publish it in that way without any previous reference to the officers of Government responsible for administering it in the various

areas. I do not know who they prefer to advise them than the gentlemen who are duly constituted as His Majesty's representatives in these various countries. They evidently do not believe in General Smuts as anybody worth listening to because this does not in any way follow out the spirit of his lectures, and one can only presume that they prefer the advice of some of those pensioners from this Colony who employ their ill-earned pensions always to make as much mischief as they can.

Now, Sir, as has been said by other speakers, a great deal of the main principles of this is only what has been accepted and carried out and put into force by these various territories, but it is not in the main principles, it is when you get down to the methods by which they interpret them. They mean them to be carried out, and when you study that, Sir, there is no question about it that there is a definite spirit of malignity against the policy of white settlement in this country which underlies the whole tone of these two White Papers, because one cannot altogether take them apart. One thing is very noticeable: they quote various documents, various White Papers which have previously been issued, and they very markedly just quote from those the bits which suit their arguments and very markedly leave out all which does not agree with them. Take, Sir, page 4, section 3—it says: "With the statement in the White Paper of 1923 in all its aspects and with all its implications . . . His Majesty's Government express their complete concurrence." And yet, Sir, one of the statements in that Paper of 1923 was that a Common Roll was entirely unsuited to this country, and yet in their White Paper on Closer Union they definitely recommend that a Common Roll is to be aimed at, and attained, which is in contradiction to the statement made by Lord Passfield in the House of Lords last week. That is only one instance, Sir. Another thing is that they never mention the White Papers of 1927; they are ignored altogether because which has got to be investigated is how the unofficial communities of this country can be more closely associated with Government in the trusteeship of the natives.

I should like to emphasise, Sir, what the hon. seconder of this motion made quite clear, that we do not in any way dispute the ultimate right of the home Government in the final say. We do not dispute that. All we ask for is that, as people living in this country, having put our all into the country, having our greatest desire to see the country develop in the best possible way as a whole, we do claim a right from intimate and close association with the other peoples in the country to have a say in the general policy of native policy

in the country. That is what we claim, Sir, and this Paper is a direct snub. The two Papers taken together, Sir, are direct snubs to our aspirations in these directions.

A great deal is always said about trusteeship, but I put it to you that they do not understand in the least what the duties of a trustee or guardian are. Their idea, Sir, is to bring up their wards to do nothing they do not want to do, never to do any work if they do not want to work, and to have a general life of ease and idleness without any incentive to improvement. Now, Sir, suppose any of us had to be separated from our children and we had to hand over their guardianship to some other hon. Mmember here, and at the end of five years we came back, and we came to see how our children had grown up. Would we not hope that the guardian had tried to instil the principles of truth, honesty and hard work, and all such other attributes which go to build up character? Is not character the thing which it is the duty of any guardian to try and build up?

Now, Sir, in this White Paper they seem to ignore that side of the question altogether. There is no mention of encouraging industry; there is no mention of encouraging any love of work or of any form of improving character in any way. Taxation is to be so fixed that it must not interfere with their ordinary mode of life. We all know, Sir—most of us, I take it, at heart are rather idle. We do it because there is real choice for the love of work. We do it because there is some incentive. It may be the incentive of duty—we may have to make a living, or it is some other incentive. I expect some of us now would rather be out having a round of golf than to come and sit in this Council Chamber. But they do it. On the other side they have got to do it, but on this side—well, I do not know why they do it (laughter). That is where I think this view of trusteeship goes wrong. It misses out that side of the question, but it is a side which I am quite certain the administrative officers in this country realise very much, probably more than we do. They are in direct contact with the natives and they realise that that is what they are up against and what they have to build up. It says somewhere, page 14 I think it is, Sir, that every care should be taken to provide that taxation in its result does not actually oblige the native to labour for wages as the only practical means of obtaining the money wherewith to pay his taxes. I submit there must be incentives if you want people to work. There must be some incentive to work, and though I do not advocate that taxation should be put on such a high basis that natives should have to go out to work, I do think it is

a good thing that they should feel that they must do something to earn enough money with which to pay their taxes and also leave enough for them to live on.

Your Excellency, as Chairman of the Governors' Conference two or three years ago definitely laid down that principle, either that it was their duty to work in their own Reserves, or go out and work elsewhere, and I am sure that is a most admirable principle.

Some years ago a Commission on education came to this country under Dr. Jesse Jones. That commission included an African member, Dr. Aggery, a very fine man, and he took a tremendous interest in African development. And what did he say, Sir? He said: "Teach them to use their hands." That is what he kept saying: "Teach them to use their hands". But there is nothing of that sort in this, Sir. It is all full of very high ideals, no doubt, and full of good intentions, but it is in the practical application that I am afraid it will break down.

There is one particular point, Sir, which the hon. Canon Leakey pointed to, and that was to try and get co-ordination and good spirit between all the races in this country and all the different sections of it. That, Sir, I do think is most important. At the present time in this Colony the feeling between white and black is good. There is a good feeling, and if only the people at home would realise that and take advantage of it and encourage us to do more by trusting us a little bit more they would be very amply repaid.

Now, Sir, one particular aspect of this means that the natives can go and buy or lease land anywhere outside the Native Reserves. I cannot believe that that is a sound thing. I think everybody I have ever spoken to who has studied the native policy and believes in the development of the natives is agreed that the only way, the only right way, to develop natives is through their own institutions, their own councils, and not to bring them into the central fray of votes and ballot boxes and things of that sort. Now Sir, if this is done—and you have natives scattered all over the country—they will be outside their tribal institutions, and they will add very greatly to the complications of this country, and I do not believe that that is a position which experienced administrators of native affairs would advocate as being a sound one.

There is also in this paper, Sir, the idea that not only should they be allowed to buy or lease land outside but that they should be subsidised by the Government to do so. That is to say, they should be allowed to do so on very easy forms

of instalment. Now, Sir, not only is that not a fair thing to do, but if they are to be subsidised to the detriment of other races, it does lay the way open to serious malpractices in the way of their being used as dummies for other people who wish to get land on easy terms.

I do not propose going into all the details—I think my hon. friends have done that pretty well—but I should like to say that there are three points in this which I do welcome. One, Sir, is the statement that His Majesty's Government have no intention of advising the abandonment of the mandate or its modification in any way. Another one, Sir, is where they say they stand by the White Paper of 1923 with regard to the reservation of the Highlands for the white people; and the third, Sir, is where they say that they think probably the natives' best method of advancement shall be through their own councils and not in the general political way. Those three things I welcome. But it is the general tone of this White Paper, and especially the note, which to my mind has queered the pitch and made things very difficult for the administration of these countries, that I take the very gravest exception.

LIEUT.-COL. THE HON. C. G. DURHAM: Your Excellency, after your speech at the opening of the Session it would be impertinent on my part to attempt anything in the way of covering the ground you have already gone over. But the amazing treatment we have received at the hands of those at home can have one effect and one effect only: it must leave us a bitter and a disgruntled community. One can only suppose that an evil spirit has entered into the souls of those in power; otherwise our loyalty could not be so damped. Your Excellency, if the proposals now suggested are to be put into force one can only look forward to the future with regret. That applies equally to all parties, because there can be no hope for peace. Sir, the cord of our loyalty, owing to the sudden friction, has become sadly frayed; I pray to God it will not break under the strain.

THE HON. E. POWYS COBB: Your Excellency, I rise to support the motion. It seems an extraordinary thing that a motion of this sort should be necessary, but I believe it is necessary in view of the note in the fly-leaf of the Memorandum on Native Policy. It seems an extraordinary thing that people in England, who have probably never seen an African except at Ears Court, should send out a Paper which is in violation of many sections of the laws of this Colony and in order that it should be put into force at once and that the Memorandum should be given the widest possible publicity.

MAIN ROADS AND BRIDGES.

THE HON. E. POWYS COBB: Your Excellency, I beg to move the motion standing in my name:

"This Council, while recognising the marked improvement which has been effected during the last few years in the standard of efficiency of the main roads and bridges of the Colony, believes that certain maintenance implements and improvement of methods are still required to make the earth roads of the Colony equal to the traffic they have to carry."

I make no apology for bringing this subject before the House because the question of roads is so vital to a Colony of this sort that I think the House will agree with me that it is worthy of consideration. But in explanation I would say that although, as will be seen from the terms of the motion, it is definitely a critical motion, it is not intended to be destructively critical, but rather, constructively critical.

Sir, I believe that the question of the suitability of our roads to carry the traffic of the Colony is important always, but particularly important at the present time, because on it does depend very largely the cost of internal transport, and on it also depends the question of whether or not we are going to adhere to the present form of earth roads or adopt some other kind of road, which sometimes is described as an "all-weather road", a road which, I imagine, entails the use of macadam, and consequently a greatly increased cost per mile; or there will be a danger, if the roads are not deemed satisfactory, that the Colony may be plunged into heavy cost in the building of what is to-day looked upon as the only sure all-weather means of transport, the branch railway. I believe, Sir, that if certain methods, certain improved methods in construction and maintenance were adopted, the capacity of our earth roads to stand up to traffic would be greatly enhanced, and in consequence the cost of transport in this Colony would be very greatly reduced.

The points I desire to criticise are, firstly, the alignment of the roads and the methods by which realignments are chosen and constructed. I think it is only fair to say that many of the general alignments are the result of tracks which were made many years ago before the country was fully known, and they have been definitely a burden upon the freedom of choice allowed to the Public Works Department. But a number of more or less important realignments have taken place recently.

In order to illustrate my point I am afraid I must refer to particular places. A salient case is the Gilgil Escarpment, on the road from Nakuru to Gilgil. The original line ran

through a swamp. The road authorities there decided to realign that section of the road. They had the choice of two possible alignments, one on either hand of the existing climb up the Escarpment. Unfortunately they chose neither of these alignments, but they chose a compromised course. They first of all carried the road up the hill and then they took it down the hill. I do not know what a realignment of that sort will cost, but it will cost a great deal of money. It did not effect any marked improvement in the gradients of the road.

Then again, in smaller realignments, I think that sufficient attention is not paid to improving the most dangerous points of the road. The points which are less dangerous are dealt with before those which are more dangerous and more hampering to traffic. I will give examples again from the same road. There were two small culverts in the road between Nakuru and Gilgil, crossing in the one case a small stream and in the other case a dry hole. Neither of these was a very serious trap but the section has cost a certain amount of money, again entirely disproportionate to the advantage of improving the track. On the other hand, you find places, such as the crossing of the Kedong River—again on the same road—where there is an exceedingly dangerous blind crossing. The realignment of the road there will be an ordinary simple matter, because the brook runs in a very narrow gorge. That, on the other hand, is not touched.

That is one side where I believe road engineering fails. The other aspect in which it fails is in respect of drainage. I think the experience of the last heavy rainy season has borne out this point. On those sections of the road which have been redrained the parts have stood up. Other parts of the road travelled through—in many cases better soil and easier alignments—have been destroyed, destroyed through lack of drains. The sort of thing you see if you drive along these roads is this. You have, for example, from Naivasha, leading up to Longonot, a long slope for about twelve miles. The whole of the water comes down from the northern side on to the road and there is a very large catch for water. The result is that in heavy rains the water from this storm pitch falls on the road and the road acts as a drain, to the utter destruction of the road.

I remember not long ago travelling up that road in the heavy rains and the water in many places was over the hubs of the wheels of the car.

There is another matter of drainage to which I think sufficient attention is not given and that is the forms and the positions of the culverts. The culverts are put at such

an angle that the water does not flow readily through them. The result is that if any small amount of flood wrack is brought down it catches in the entrance to the culvert and the entrance is blocked. The result is that there are many drivers in this country who know that the most dangerous place in the road is a culvert, and who always approach a culvert with the greatest amount of care. That ought not to be so and need not be so.

I believe if drainage, particularly storm drainage, were properly carried out, much of the £40,000 that this hon. House was asked to vote the other day would not have been required.

Then the third main head of criticism is the question of maintenance. Over and over again you see construction jobs done and done well. The grader is very often used quite efficiently—in other cases, I admit it is not—but it is quite frequently used in an efficient manner with good results, but what happens? That road probably receives no further attention for a year or more. Wet weather comes; small ruts form; small holes form; the water stands after the first shower in the ruts and holes; the ruts get deeper; the holes get bigger; and in a very short time what was quite an excellent road, on which public money and skill had been spent, is rendered almost impassable.

I had a very interesting example of that in driving down here. The road west from here for 150 miles is extremely good, but the process of construction from Samburu to Voi has naturally taken a considerable time. The grader is now working near Voi. When you leave Voi the road is naturally soft, due to grading, and ruts are forming. Further on the road is hard; presumably a certain amount of rain fell soon after the grading—it is hard and smooth and very good. A little further on towards Mombasa the rain has already dug great furrows from the centre of the road to the edge. The road is now in a corrugated state. That need not happen, I maintain, if proper maintenance machinery is used. If these small holes and ruts and corrugations are allowed to continue through a further rainy season and traffic continues to use that road, then much of the good work that has been done on the road will be utterly destroyed.

I believe, I confidently believe, that the solution of that trouble is the use of a very simple machine which has been tried out and has been in use in the United States of America for twenty years, I should think—I saw it at work in 1912 anyway. It has been called a Road Planer. It is a cheap and light machine about twenty feet long, with blades set at various angles. The result is that as it passed along the road it takes off all the small bumps and fills in the holes. A

machine of that sort can travel at a very considerable speed and covers a wide front; and if we adopt it here the method that was in force in America some time ago might be put into force here of allowing one of these machines to pass over the road at least once a fortnight, and I believe that the cost of maintenance, the quality of the road, and the capacity to carry traffic would be enormously increased. Such a proposal is not a costly one. It means a far less expenditure in plant and in staff than might at first be supposed. For example, take the road from Nairobi to Kitale—roughly 240 miles. A machine of this sort, making due allowance for stoppages, can travel at least two miles an hour, and assuming a ten-hour day, which is what it is I think for this sort of work, it would cover twenty miles a day. Supposing it had a range of sixty miles a week, that would mean a range of 120 miles a fortnight; that would mean that two such machines would maintain properly the whole of that road from Nairobi to Kitale, a matter of 240 miles. On these figures, and if the method were adopted all over the Colony, the cost would be comparatively small and the saving in road maintenance would be out of all proportion to the cost. The capacity of the roads to carry traffic would be increased tenfold, and I believe we should then be saved heavy expenditure.

On these grounds—on the ground that greater care is needed in alignment, that thorough drainage is needed, and that maintenance is the life and soul of earth roads and is essential and is to-day practically non-existent—I commend this motion to the favourable consideration of the House.

LIEUT.-COL. THE HON. C. G. DURHAM: Your Excellency, I wish to support this motion on principle.

It is quite true, Sir, that these roads are bad—nobody knows better than I do—but when it comes to a question of detail, Sir, I will not waste the time of the House. What I should, however, Sir, like to suggest if possible is that the Central Roads Board should invite those of us who have complaints and let us appear before them and put up any suggestions we have.

HIS EXCELLENCY: The question is:

"This Council, while recognising the marked improvement which has been effected during the last few years in the standard of efficiency of the main roads and bridges of the Colony, believes that certain maintenance implements and improvement of methods are still required to make the earth roads of the Colony equal to the traffic they have to carry."

THE HON. CONWAY HARVEY: I rise to support the motion, Sir, but I am sorry that my hon. friend the mover has departed from his usual precision of language in his opening remarks. I suggest, Sir, that it is unduly generous, in view of recent experiences, to describe the various branch lines, and even the main railway line in Kenya, as all-weather affairs, because they are not.

There is one matter, Sir, of some importance which has not been mentioned. I believe one of the chief road-destroying agents, especially between here and Nairobi, is the competition between heavily laden lorries and the Railway. Apart from its destructiveness to the roads, I think this competition with the Railway absolutely bars it from any reasonable consideration by people who want to see the finances of the Colony achieve their maximum, and I should like here, Sir, to enquire what has happened to a Committee which was appointed by Your Excellency on the 1st August last year to consider the principles relating to the Motor Services Bill.

The hon. mover, Sir, stressed the importance of better maintenance machinery and I do support him there, but I suggest, Sir, that maintenance methods may be very greatly improved even with our existing somewhat scanty machinery. I do consider, Sir, with a good deal of experience of Kenya roads behind me, that it is of vital importance that some better method should be introduced for the permanent maintenance of roads. When roads are originally constructed, Sir, at very great cost, they are often extremely well made; and then they seem to be completely forgotten by the Department responsible. Rains come along and those roads are washed away and the money is wasted. All that, Sir, to my mind, would in many cases be entirely avoided by the establishment of small maintenance gangs at proper intervals along the whole length of our roads.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I should like to support this motion, Sir, because I do think, although there has been a good deal of improvement in the roads, that there is a good deal more required to bring them up to the standard which they should be and which they could be brought up to.

One point, Sir, which has not been touched on is the question of hours of work on these roads. I have travelled up and down fairly often, and certainly oftener than not I see graders standing by the side of the road doing nothing at all. Whether that is because they are not wanted, whether they are tired or what it is I do not know, but it is very noticeable. You come along these roads and you see two or

three graders are not working. At different times I have passed—at nine o'clock in the morning and three o'clock in the afternoon—I do not know what their hours are. I believe we are spending a great deal of money on improving our roads but we are not getting full value for the money we spend. I believe the authorities display all the three great principles of roadmaking—alignment, drainage and form, but those principles are not always complied with. You notice it very clearly, Sir, where these rules are followed. The roads stand up wonderfully well even in bad weather. Where they are not they very soon lose their condition and necessitate a great deal of extra money being spent on their maintenance and improvement.

One particular thing is the making of flat roads, with high grass on each side, so that the only place for the water to go is the centre of the road. That is a frequent cause of destruction, whereas you see close by roads properly formed, with proper drainage on the side, standing up perfectly well.

There is one thing I should like to ask Government and that is, what has happened to the recommendations which have been passed by the Central Roads Board with regard to the money for permanent all-weather roads? Has anything further happened about that, and what method does Government propose to adopt in regard to that?

THE HON. THE COLONIAL SECRETARY: Your Excellency, I feel I shall be endorsing the view of all other members of the Central Roads Board if I say that we should welcome the suggestion made by the hon. Member for Kikuyu, that if any matters of detail in regard to plant or improvement could be brought before that Board and considered, we should be only too glad to give them most careful consideration.

As hon. Members are aware, there is in the Estimates each year a lump vote under Public Works for the provision of tools and plant, and no doubt it may be possible to give effect next year in the Estimates, should finances permit, for the acquisition of one or more of those machines, if the Board is satisfied that such acquisition would make for better maintenance and economy.

I have been asked to state the position as regards the committee appointed to go into the question of motor and rail competition. My hon. friend the Attorney General, who is chairman of that committee, tells me, as I think hon. Members will realise, that he has been so busy with legislative and committee work that he has not yet been able to summon it, but he hopes to be able to do so in the near future. The other questions put to me by the Noble Lord

the Member for Ukamba, with reference to certain recommendations made by the Central Roads Board—I take it he was referring to the question of loan funds. If that is so, as he will remember, the demands were very large, and the matter is at the moment under the consideration of Government.

HIS EXCELLENCY: In view of the assurance given by the Colonial Secretary that the Road Board will welcome evidence and representations on the subject dealt with in this motion, I should like to ask whether the hon. Member for the Rift Valley wishes to press it?

THE HON. E. POWYS COMB: Your Excellency, I do not wish to press the matter provided that, so to speak, the assurance given by the hon. the Colonial Secretary could be underlined. It may be within Your Excellency's recollection that at the last Budget Select Committee this question came up, and you yourself, Sir, were good enough to say that the matter should be inquired into. So far as I can see, travelling about the country, the results are singularly invisible. All I want, Sir, is to be assured that this matter is going to receive the attention of the responsible members of Government, and on that understanding I shall be pleased to withdraw the motion.

HIS EXCELLENCY: I can give the hon. Member the assurance he wishes, accompanied by a request for an assurance which I hope to receive from him. The reason why so little action was taken after the deliberations of the Select Committee last year was that it was almost impossible to get any evidence from the hon. Member, although he was pursued by letters and telegrams all over the country. If he will give the Central Roads Board the assurance that his presence and evidence will be available when required, I can give him the assurance he asks for.

THE HON. E. POWYS COMB: On a point of explanation, Your Excellency, may I say that the telegrams never reached me.

HIS EXCELLENCY: The hon. Member is very elusive. The motion is by leave withdrawn.

STANDING RULES AND ORDERS.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I wish to move a motion in the following terms:—

“That a Select Committee be appointed to revise and extend Standing Rules and Orders.”

I suggest, Your Excellency, that this is not a contentious matter, but a matter of concern to this House. The simpler we can make these Rules, and the less ambiguous we can make them the better it is. From past experience—I refer to the last Council—I find a good deal of difference of opinion on the interpretation of certain rules exists. I hope Your Excellency will not think I wish to criticise, but I believe that we should on all occasions gain by experience and implement our experience, and I maintain that Standing Rules and Orders are on many points very ambiguous and could with advantage be altered.

I hope that Your Excellency will see your way to accept the motion in the spirit in which it is moved. If I may do so, I should like to express the opinion that the hon. Member for Nairobi South, could this Committee be appointed, should be a member. He is at present absent on leave, and I just ask Your Excellency to take that into consideration, which I hope you will, and accept the motion before the House.

CAPT. THE HON. E. M. V. KENNELY: Your Excellency, I wish to second the motion.

I consider, Sir, that we have the worst Standing Rules and Orders in the world, and that is no small claim. We have, Sir, in the past encountered material difficulty in the interpretation of them and, Sir, our President himself has, I believe, encountered that difficulty on more than one occasion. I think it is very unfair to impose upon our President clear translation of the Rules. We should make these Rules clear because after all he acts in a dual capacity, and sometimes in a capacity more than dual. When these Rules were produced they had been drawn up by a committee, and when they were introduced into this Council it was found necessary, I think, to move seventy or eighty amendments, and unhappily we were rather hurried over it, and we had not time to move the other seventy or eighty which should have been moved.

I support the motion strongly, and I trust the Government will accept it.

HIS EXCELLENCY: The question is:—
“That a Select Committee be appointed to revise and extend Standing Rules and Orders.”

THE HON. T. J. O'SHEA: Your Excellency, I beg to move as an amendment that the motion be altered to read:—

“That a Select Committee be appointed to inquire into the necessity of revising and extending Standing Rules and Orders.”

Unlike the hon. seconder, I do not consider our present Standing Rules and Orders as the worst possible; on the contrary, I think that, while they may have shortcomings, their shortcomings are not so great, and it must be recognised that they were only comparatively recently introduced after exhaustive inquiry by a committee made up from this House practically as it stands to-day. I am doubtful whether the collective wisdom of the House to-day is so very far in advance of the collective wisdom at the time they were made and is capable of such far-reaching changes as apparently the seconder contemplates. Again, I dislike the idea of giving a definite instruction to any Select Committee appointed that it is "to revise and alter"; while on the other hand, I welcome any opportunity of inquiring into the necessity of doing anything that may seem desirable. I suggest therefore, Sir, that the hon. mover and seconder might be prepared to accept my amendment, as it will result in revision and extension being made if, as a result of inquiry, it is found necessary to do so.

HIS EXCELLENCY: I understand the hon. Member wishes to move an amendment:—

"That a Select Committee be appointed to inquire into the necessity of revising and extending Standing Rules and Orders."

LT.-COL. THE HON. J. O. KIRKWOOD: Your Excellency, with the permission of my seconder, I agree to the amendment which has been suggested. I think that if the Committee is appointed to inquire into "the necessity of" there is no question of the necessity being discovered.

CAPT. THE HON. E. M. V. KENEALY: Speaking to that, Sir, will that committee have power to make recommendations, if it finds this necessity or will that committee merely say, "Yes, there is the necessity," and then report back and involve us in a great waste of time?

HIS EXCELLENCY: I imagine that if the committee considers that there is a necessity it is bound to show the reason why it considers that, and in showing the reason it will show what amendments will be required, otherwise its Report would be valueless.

CAPT. THE HON. E. M. V. KENEALY: That being so, Sir, I shall be happy to allow the proposal, if the House agrees.

HIS EXCELLENCY: I will put the amendment:—

"That a Select Committee be appointed to inquire into the necessity of revising and extending Standing Rules and Orders."

THE HON. THE ATTORNEY GENERAL: Your Excellency, we are now half way through the recently extended life of this Council. In six months at the latest, and in all probability some time earlier than that, this Council will be dissolved. Yet, Sir, at this very late date we are asked to appoint a Select Committee to consider the amendment of Standing Rules and Orders that will have little or no effect on this Council, and may possibly—may I say, undoubtedly will—greatly affect the Council not yet in being, the personnel of which may be in many respects quite different from that of the existing Council.

Furthermore, the hon. mover threw out the suggestion that that committee should not sit until the hon. Member for Nairobi South returned to the Colony. I would remind hon. Members, Sir, that by that time the Council will be busy with the Estimates; the Select Committee will be sitting almost continuously. It will be extremely difficult to convene a Select Committee on this or any other subject at that time, and there is a likelihood, to put it mildly, that the dissolution will supervene not long after the close of the Estimates session.

It is only right, Sir, that any consultative and deliberative body such as this should be master of its own procedure, but it hardly seems to me quite dignified or proper that one of the final acts should be to lay down and dictate the procedure for their successors. There is also the reason, Sir, that at a time such as this, when there are so many major problems requiring examination and careful thought, a committee like this should be put on one side; hon. Members must realise that unless the report of that committee has been adopted by Council before the dissolution comes then all the labours of the committee are valueless; the work would have to be done again.

A further point, Sir, is that as a result of deliberations shortly to be undertaken, the constitution of this Council may be varied. In that case, a further examination of the Standing Rules and Orders would almost essentially have to be undertaken.

For these reasons, Sir, which I have stated very shortly indeed, Government is unable to accept this motion, but I have Your Excellency's authority for saying that Your Excellency has instructed an amended version of Standing Rules and Orders to be prepared with a view to its submission to a Select Committee of the Council which will be constituted some time about February, and will sit for the first time shortly after that date. I would say also, Sir, that any suggestions for the modification or amendment of Standing Rules and Orders which hon. Members care to make to me will be very carefully considered in the preparation of the rough material for the first rough draft for that Select Committee.

HIS EXCELLENCY: In view of what the Attorney General has said, does the hon. and gallant Member wish to press his motion?

LT.-COL. THE HON. J. G. KIRKWOOD: I have no wish to press the motion, Your Excellency. Under existing circumstances, it is quite obvious that it will be futile, but I am not suggesting that each Council should have the same Standing Rules and Orders. What I did suggest was that this Council, after some three and a half years, had gained a good deal of experience, and that experience might be put to practical utility.

HIS EXCELLENCY: I understand that the hon. and gallant Member withdraws the motion.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I wish to withdraw the motion.

HIS EXCELLENCY: The motion is by leave withdrawn, but I should like the hon. and gallant Member to understand that the experience gained by this Council can all be placed on record with the Attorney General for the guidance of the next Council. That, I think, is very desirable. I hope that hon. Members who have amendments or elucidations to propose in the matter of Standing Rules and Orders will put them forward.

*The Council adjourned till 9.30 a.m. on Wednesday,
16th July, 1930.*

WEDNESDAY, 16th JULY, 1930.

The Council assembled at Government House, Mombasa, on Wednesday, 16th July, 1930, at 9.30 a.m., His Excellency the Governor (LIEUTENANT-COLONEL SIR EDWARD WILLIAM MACLEAY GRIGG, K.C.M.G., K.C.V.O., D.S.O., M.C.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of 14th July, 1930, were confirmed.

PAPERS LAID ON THE TABLE.

The following paper was laid on the table:

BY THE HON. THE COLONIAL SECRETARY (MR. H. M.-M. MOORE):

Statement regarding the Cost of Living Commission.

NOTICES OF MOTION.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I beg to give notice of the following motion:—

"That the Board of Agriculture be instructed immediately to inquire into and report on the question of a wheat pool and the prohibition of the importation of wheat flour, and that Government be asked to furnish the Board with all the evidence they have at their disposal, so as to avoid putting witnesses to the inconvenience of having to tender their evidence a second time."

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I beg to give notice that I shall move:

"In the opinion of this Council, it is not in the public interest that matters of importance to the Colony involving economic principles or sectional interests should be investigated in secret; particularly when such investigation entails the taking of evidence which should and would have been available to Council had the matter not been investigated in secret."

ORAL ANSWERS TO QUESTIONS.

BOMBAY FLOUR.

THE HON. CONWAY HARVEY asked:—
"What quantity of Bombay flour has been purchased by the Railways and Harbours Administration (Catering Department) during the last six months; and what quantity of locally produced flour has been purchased by the Department during that period?"

THE HON. THE ACTING GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS (MR. H. E. GOODSHIP): During the six months, December, 1929, to May, 1930, the following purchases were made by the Kenya and Uganda Railways and Harbours Administration:—

- (a) Bombay flour: 21,000 lb.
 (b) Kenya wheat flour atta: 47,000 lb.
 (c) Kenya maize flour: 7,985,600 lb.
 (d) As regards Kenya wheat flour of the finer quality, no direct purchases were made, but indirectly approximately 16,000 lb. were purchased through the medium of the Administration's bread contractors in the shape of loaves of bread.

The above figures refer to purchases by the Railways and Harbours Administration as a whole. The catering Department is not a purchasing department as regards flour.

THE HON. CONWAY HARVEY: Arising out of that answer, Your Excellency, may we be told if it is necessary to use Bombay flour at all?

THE HON. THE ACTING GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS: Your Excellency, the facts are that a certain amount of Bombay flour is still used in the making of pastries, pies, puddings, blanchmanges, tarts, sausage rolls, and a slight amount of bread-making in isolated quarters such as Lake Kioga, Lake Albert and on the Coast, and the catering people generally contend that it has slightly longer lasting qualities. We do not use it at all in the settled districts. That is the position I have found, Sir, but I knew nothing about it till this question arose. As a matter of interest I might add that I have given instructions that no Bombay flour should be purchased, but that confectioneries should be made of the finer qualities of wheat flour to see if it will give as good results in the making of pastries, pies, puddings, tarts and sausage rolls.

MOTIONS.

FIRST SUPPLEMENTARY ESTIMATES, 1930.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I beg to move that the First Supplementary Estimates, 1930, be referred to a Select Committee of Council.

As the motion stands, Sir, these Estimates should be considered in detail in Select Committee, so I do not think it is necessary for me to say much about them by way of introduction. If hon. Members will look at the statement

they will see that it includes a sum of £40,000 for roads, which has already been approved by resolution of this Council; further, that it provides a sum of some £21,000 odd for that vote, leaving for new services a sum of £50,000 odd. That is more than covered by anticipated savings, and the net actual excess anticipated is only in the neighbourhood of some £10,000.

THE HON. THE CHIEF NATIVE COMMISSIONER (MR. G. V. MAXWELL): Your Excellency, I beg to second the motion.

The question was put and carried.

THIRD SUPPLEMENTARY ESTIMATES, 1929.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I beg to move that this Council approve the Third Supplementary Estimates, 1929, as printed and laid on the table.

At an earlier meeting of this Council the Treasurer laid on the table the Financial Report and Statement for the year, which shows the results of the year's working. The motion now standing in my name is to give legislative sanction to such excesses which have not previously been before this Council. If hon. Members would prefer to consider this item also in Select Committee, personally I would be only too happy to meet their wishes, but to a very large extent I think they will find that the matters dealt with are very small and formal.

THE HON. THE CHIEF NATIVE COMMISSIONER: Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is:—

"That this Council approve the Third Supplementary Estimates, 1929, as printed and laid on the table."

THE HON. CONWAY HARVEY: Your Excellency, as there are one or two points in connection with this item which it is desirable to go into, I think the time of the Council will be saved and the general convenience served if this was also referred to the usual Select Committee of Council.

THE HON. THE COLONIAL SECRETARY: As I have already stated, Sir, I have no objection to that course, if the hon. Member would care to move an amendment to the effect that Third Supplementary Estimates be referred to a Select Committee.

THE HON. CONWAY HARVEY: I do so move, Your Excellency.

CAPTAIN THE HON. E. M. V. KENEALY: I beg to second, Sir.

HIS EXCELLENCY: The question is that the words "this Council approve" be deleted and that the following words be added: "be referred to a Select Committee of Council".

The question as amended was put and carried.

HIS EXCELLENCY: There is a small matter with which I think Executive Council has to deal in the next few minutes, but I think the Colonial Secretary will be prepared to take the Select Committee in about ten minutes time, if that will suit hon. Members.

(Council adjourned until 9.30 a.m. on Thursday,
17th July, 1930.)

THURSDAY, 17th JULY, 1930.

The Council assembled at Government House, Mombasa, on Thursday, 17th July, 1930, at 9.30 a.m., His Excellency the Governor (LIEUT.-COL. SIR EDWARD WILLIAM MACLEAY GRIGG, K.C.M.G., K.C.V.O., D.S.O., M.C.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 16th July, 1930, were confirmed.

PRESENTATION OF PETITIONS AND MEMORIALS.

THE HON. A. H. MALIK: Your Excellency, I beg leave to present a petition signed by the licensed goldsmiths and silver-smiths of Mombasa relating to the Brokers' Ordinance, in which they declare that the Bill may be referred to a Select Committee of this House and may be empowered to hear witnesses and collect evidence.

I beg to move that the petition along with the Bill may be referred to a Select Committee . . .

HIS EXCELLENCY: Order, order. The hon. Member is only entitled at this stage to lay his petition. If he wishes to take any further action on it he can consult me.

THE HON. A. H. MALIK: Under Rule 17 I understand that I can—page 3.

HIS EXCELLENCY: I beg the hon. Member's pardon: he is right. I thought he had to give notice before any further action could be taken. He is moving that the Bill be referred to a Select Committee.

THE HON. A. H. MALIK: Yes, Sir.

HIS EXCELLENCY (to the Hon. the Attorney General): That will require notice will it not?

THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR, K.C.): I think it will, Sir. It will be in order for the hon. Member to move that the petition be referred to a committee, but the combination with that motion of a suggestion that the Brokers' Bill, which is already before a committee, should be referred to a committee of the whole Council would not be in order. That would have to form the subject of a separate motion.

HIS EXCELLENCY: If he moves that the petition be referred to a committee, is it possible to take it up without having to move the suspension of Standing Orders?

THE HON. THE ATTORNEY GENERAL: Yes, Sir.

HIS EXCELLENCY: No further notice is required?

THE HON. THE ATTORNEY GENERAL: No further notice is required, Sir.

HIS EXCELLENCY: If the hon. Member will withdraw that motion and move that the petition be referred to a committee, in accordance with Rule 17, it will then be possible for the Committee which is dealing with the Brokers' (Amendment) Bill this morning to deal with the petition.

THE HON. A. H. MALIK: Yes, Sir, I move that.

HIS EXCELLENCY: That the petition be referred to a committee?

THE HON. A. H. MALIK: Yes, Sir.

THE HON. SIR AH BIN SALIM (LIWALI FOR THE COAST): Your Excellency, I beg to second.

HIS EXCELLENCY: The question is that the petition be referred to a committee.

The question was put and carried.

HIS EXCELLENCY: The hon. and gallant Member for West Kenya has given notice of two motions. One of them is contained in the minutes of yesterday's meeting, and deals with the reference of matters of importance to the Colony to committees which meet in secret.

The other motion, of which he gave notice a day earlier, was a motion to the effect:—

"That no commissions, committees, or boards, dealing with matters of public interest including in their personnel any elected member should be appointed without reference to and approval of their representative by the Elected Members."

That second resolution contains an innuendo which is, as the hon. Member must be aware, without foundation. All hon. Members know that suggestions in matters of this kind from their side of the House are courteously considered and, whenever possible, acceded to.

Apart from the innuendo, the resolution attempts to bind the discretion of the Governor in an executive matter. It is, therefore, a challenge to the Royal Instructions, which neither I nor this Legislature are entitled to modify, or even to discuss.

The other resolution is an even more serious challenge to the Royal Instructions and Letters Patent by which His Majesty prescribes the powers and duties of the Governor. It seeks, not only to limit the Governor's discretion as head of the Executive, but also to abolish the body constituted under oath of secrecy to advise the Governor, namely, the Executive Council.

Both resolutions are therefore unconstitutional and cannot be moved.

CAPTAIN THE HON. E. M. V. KENEALY: Your Excellency, I suppose I shall not be empowered in this House to attempt to counter the theories on which Your Excellency . . .

HIS EXCELLENCY: Order, order. I have told the hon. Member that the action he proposes to take is unconstitutional, and he is not entitled to discuss my ruling.

PAPERS LAID ON THE TABLE.

The following paper was laid on the Table:—

BY THE HON. THE COLONIAL SECRETARY (MR. H. M. M. MOORE):—

Report of Select Committee on the Third Supplementary Estimates, 1929.

BILL.

FIRST READING.

THE WATTLE BARK INDUSTRY (REPEAL) BILL.
On the motion of the hon. the Attorney General the Wattle Bark Industry (Repeal) Bill was read a first time.
Notice was given to move the second reading at a later stage in the session.

MOTIONS.

KARITH SECONDARY SCHOOL.
THE HON. T. J. O'SHEA: Your Excellency, I beg to move:—

"That in the opinion of this House a careful enquiry is necessary before any decision is made to reduce the present standard of education at the up-country European schools and to determine the organisation and scope of the

new Kabete Secondary School and that the Report of such enquiry be laid on the Table before the Education Estimates for 1931 are considered."

I feel sure, Sir, that this motion will have the sympathy of the House. The need for a high standard of education for the European children of this Colony is undoubtedly recognised. I know that it is considered a matter of the utmost importance by the present Director of Education, and I also know, Sir—and so does the whole country—that Your Excellency shares that opinion very entirely. I had intended, as a matter of fact, to quote this morning from various public utterances of Your Excellency from time to time on the subject, but in view of the heavy programme which has faced us this Session, I have decided not to do so. But I think it only right to say that public opinion in this Colony on this subject has been educated as to the importance of it by Your Excellency to a very large extent, and it is now undoubtedly the universal feeling in the Colony that this is one of the most important matters which the Legislative Council can deal with.

The motion this morning arises out of a circular that was recently distributed by the hon. the Director of Education. I noticed that in the copy I received it was addressed to all the Elected Members of Council, and I presume that its contents are familiar to Members on the other side of the House; in case not, it is necessary to explain that in view of the opening in the near future of the new Kabete School certain changes in the education being given to children in the up-country schools are suggested. The circular states that the general arrangements after the opening of the Kabete School will be as follows: boys will generally be retained in primary schools until they have completed the primary school course, which is at present done by taking the Cambridge Preliminary Examination. After that stage they will be transferred to the new school at Kabete. At the present time, as a matter of fact, children are being educated in some of the up-country schools to a higher standard and it is proposed under this circular that, as from the opening of the Kabete School, the standard of education of these primary schools should be reduced. Provision will also be made at Kabete for boys over the age of fourteen years who have not completed the primary course of education; that cuts directly across the original intention with which Kabete School was built. Kabete School was built solely for the purpose of a secondary school. It is now suggested that in addition to being used to some extent as a secondary school it should also be used to educate backward boys in the primary course of education. And it is further suggested that similar arrangements should be made

in the case of girls, but they, instead of going to Kabete, which will be purely a boys' school, should go to the Nairobi Central School.

Now, Sir, the present position in the primary schools is that they teach boys up to the Junior Cambridge standard, boys and girls up to the Junior Cambridge standard of education; and up to a few years ago boys and girls were educated up to the Senior Cambridge Standard of education at these same schools. That is to say that some years ago, before we expended the very large sums on new buildings for European education and before we increased the expenditure of the Education Department up to its present high figure, our children were receiving a higher education at the up-country schools than they are receiving to-day, and a much higher standard of education than it is proposed that they should receive at these schools in the future. In other words, as a result of their heavy capital expenditure and a very considerable increase in the cost of recurrent expenditure, the standard of education available to children in their own districts will be very much lower than it has been and lower than it is.

Now I think one of the reasons why these changes are proposed is because undue attention has been given to the question of boarders. It is true that up to recent years the proportion of children attending these schools was greater in the case of boarders than in the case of day scholars, but I am inclined to think that the Education Department in suggesting these arrangements has completely overlooked the very considerable change that has taken place in that connexion. To-day there is a much greater number of day scholars attending these schools than in the past, and with the tendency of our development—the towns developing rather more rapidly than the rural districts—there will be an increasing proportion of scholars at these schools who will be day scholars and not boarders. That being the case, it is hardly fair, it does not give you a fair picture of the case, to compare the position that will arise when children are sent to Kabete who would have been boarders in any case. The Education Department is over-stressing that aspect of the case, I suggest, and not giving anything like the consideration that it should to the case of the day scholars who are rapidly increasing in number.

In a later paragraph in the circular it is suggested that the Government might make financial arrangements at the expense of the State to facilitate the transfer of these children from the up-country schools to Kabete so that the ultimate cost to the parent would be no greater. That is certainly a good suggestion to make and it would help to some extent to

meet the difficulties; but again it does not take into consideration the position of the day boarders in these schools. If it is suggested that these day scholars should be, at the expense of the State, put in as boarders in the Kabete School, then I think the country is going to be asked to face a very heavy bill, because it should be realised that the majority of these day scholars from the schools are the children of people not earning big salaries and with no accumulated resources. They are to a very large extent the children of shop assistants, clerks, railway workers and industrial workers, and these parents are certainly not in a position to afford the cost of sending their children to such a school as we contemplate Kabete will be. Therefore if they were to rise above the standard of the Preliminary Cambridge Examination they would have to be, I think, to some extent a burden on the State, and I would like to emphasise again that all sides are agreed that our children must have a high standard of primary education. It may be correct to say, indeed I believe it is correct to say, as was said by the Education Department, that the primary course of education, as generally understood, ends at the Preliminary Cambridge. Conditions here necessitate a higher standard of primary education for our children than in many other places because stopping short at the stage suggested by the Department—they have suggested a smattering of education—would not equip them to undertake the positions that they should aim at in this country to maintain the status of the ruling race. I would urge, therefore, that this aspect of the question be given very, very careful consideration and be subjected to an exhaustive enquiry by people representing all interests and all shades of opinion and nothing be done to degrade the present standard of education of these up-country schools until that enquiry has been held and very carefully considered, and until an opportunity has been given to this House very carefully to consider it.

The second object of my motion is to ensure that the new Kabete School will fulfil the functions for which it was intended. When the project was first mooted I was certainly very sceptical as to whether the country could afford it, and it was only after listening to the point of view of those who have more imagination on the subject than I, that I was convinced, and I may say I was very largely influenced by what you, Your Excellency, said on the subject. It was held, and I believe quite rightly, that the country had now arrived at the stage when it was absolutely necessary that there should be facilities in the country for bringing our children to a higher standard of education than the facilities which existed.

£80,000 was voted for the building and it was quite well understood by everybody that the construction of that school and the putting of it into operation would almost certainly involve a substantial increase in the vote of the Education Department to enable that school to be properly run; and on all sides it was said we would not talk of the expense. That was over four years ago. Indeed, if my memory were better than it is, I might probably be able to say definitely that it was over five years ago. In those five years conditions have altered to such an extent that the need for the Kabete School is very much greater than it was at that time when it was thought that it was necessary to involve the high expenditure which it did involve. The number of European children wanting education has increased by leaps and bounds, and I feel certain that if a complete census were taken it would be found that there are now between 1,500 and 2,000 European children requiring education, the majority of whom would choose better facilities than exist at Kabete.

The Education Department has always, for some reason or another, been very unfortunate in the statistics upon which it works. I grant you that those statistics are very often the compilation of other people and therefore the Department cannot be held responsible for their inaccuracies. They are I believe to-day again working on wrong statistics, as a result of which they are very nervous indeed lest, having built this big school, we shall find ourselves without anything like a reasonable number of children to put into it during the next few years. That is the only explanation I can give as to the nervousness of the Department, and its action, resulting from that nervousness, in endeavouring to fill up the school with a class of pupil for whom it was never intended. I rather thought of suggesting that if the Department had correct statistics and if it made a proper effort to let the people of this country know that that school would be in existence next year and in the position to provide the children of people with an ordinary secondary education, the number of pupils which would be available next year would be sufficient to justify its erection. After all, you can hardly expect to fill up an institution like that in the course of a few weeks or months if the greatest possible secrecy is observed as to how the school is getting on and what it is going to do when it is ready. At the present time 75 per cent of the parents to whom that school is of great interest are unaware as to whether the school is going to be ready next year or not; and if it is ready, what it is going to do for their children. So that, I think, is a very strong reason or justification for the enquiry I have asked for. I believe it will be found that if the public is taken into the confidence of the Education Department, the

number of people with children offering admittance to that school next year for secondary education will be sufficient to justify the cutting out of this most pernicious suggestion that the school shall not be used as a secondary school, but shall be used as a combined school and partly given over to the training of backward boys over fourteen years of age. There is hardly any need to emphasize that if that were done, if the school were to be used for the training of backward boys of fourteen years of age and over, it would completely destroy the character of the school as contemplated; and in connexion with Kabete, Sir, I should like to get some statement from the hon. the Director of Education as to what are going to be the courses of study at that institution. I understand that it will take boys up to the university scholarship standard—that is to say, beyond the Matriculation course—but in addition to doing that, I believe it is expected—and it was, I believe, definitely laid down—that there would be specialised education at the institution. I believe the site at Kabete was specially selected because it would bring the institution into close touch with the experimental side of the Agricultural Department's work; because it was thought that there would be a closer liaison between those two departments, and that it would be possible to lay the foundation of scientific agricultural training in the Colony. Now, Sir, I urge that as a very important side of the work of this new Kabete School. It is becoming an increasing demand upon the activities of the Crown Agents to secure for this Colony capable agricultural instructors. I suggest that you can get no better instructors for the native side of agricultural development here than the children who have been brought up in the country, who understand the agricultural conditions of the country, who understand the natives, and who have received a scientific training based upon the agriculture of the country: and to forestall the objections which I feel sure will be raised by the hon. the Director of Education, that it is impossible to arrange for a highly scientific course of instruction here, I would point out that for purposes of native agriculture any very high degree of scientific training is unnecessary; and in connexion with European agriculture the same applies. A lot can be learned in such an institution as this without expecting the same high degree of training that would be received in an old-established training institution at home.

Now, Sir, I have deliberately left vague the question of the enquiry, knowing that you, Sir, and the hon. the Director of Education himself, are of the same mind as myself on the all-important question of education. I am quite content to leave in your hands the scope of the enquiry, but I have asked that it should report to this House, or rather, that its report

should be laid on the Table, before the Estimates for 1931 are considered. The reason for that is obvious; it is that we on this side of the House consider it essential that these questions should be settled before we are asked to vote the money for next year's Estimates, Your Excellency.

LIBERT-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I beg to second this motion.

I have no intention of going into details or following the arguments which my hon. friend has put before you so clearly. I am only going to deal with it on the very broadest lines.—There are people who hope to squeeze the white settlers out of this country altogether; that, Sir, can never be done for the reason which was given some years ago by Mr. T. A. Wood when he was home in England, to Lord Peel. Lord Peel said: "I think the best solution of this trouble is to buy you all out"; Mr. Wood replied: "You cannot do that, Sir, it is our home." That is the fundamental question of this education of white children. If, Sir, it is accepted that white settlement is here for good, it is essential that the white settlers should be of the best quality possible. The people who will be the dominating influence in the future are the children of to-day, and therefore it is absolutely essential that they should have the best education possible. That, Sir, I do not think anybody disputes. At times the enemies of settlement raise the cry: "Why so much money per head spent on the education of white children, so much more than per head of the native population?"; but it must be obvious, I think, to anybody who cares to think, that it is far more important to the native population that every white child in this country should be properly educated and that there should be no fear of an illiterate low class of white people in this country. It is of far greater importance to the native than to any other section of the community.

Now, Sir, following on those principles, it is essential that all the white children growing up in this country shall have the best possible means of being educated up to the best standard which can be given them. That is the origin, I think, Sir, of this secondary school at Kabete. I personally am a very strong supporter of that school, and I do hope that it will be made as good and as strong as it can be. I should not support anything which tended to make it ineffective. On the other hand, Sir, my hon. friend the Member for Plateau South, has said there are people in this country who may not be in a position to send their children to Kabete, and I do think that their case ought to be very thoroughly investigated so as to prevent any chance of there being any body of children in this country growing up only half educated

without the proper completion necessary. It is for that reason that I welcome that careful enquiry should be made so as to eliminate any fear of the Kabete School being started with dissension amongst the people of the country. We want it to be started with the support of the whole country and not in a spirit of disagreement. It is for that reason that I support the proposed enquiry.

HIS EXCELLENCY: The question is:—

"That in the opinion of this House a careful enquiry is necessary before any decision is made to reduce the present standard of education at the up-country European schools and to determine the organisation and scope of the new Kabete Secondary School and that the Report of such enquiry be laid on the Table before the Education Estimates for 1931 are considered."

CAPTAIN THE HON. E. M. V. KENYALY: Your Excellency, I wish to support this motion, primarily, Sir, because there appears to be a danger of a decision being come to without the enquiry; there appears to be a danger that such a decision has already been taken.

Now, Sir, what is the educational policy of this country? It is a little difficult to discern it. What is the public representation on the Central Board of Education; and are Elected Members, who represent the opinions of this country, not only the opinions of the whites of this country but the opinions of all the elements that compose their constituencies, upon the Central Board of Education? It is a little difficult to ascertain.

The Europeans in this country, Sir, have Imperial responsibilities towards the rest of Eastern Africa. In political life Kenya leads the way, although Kenya is occasionally roared at, and it is essential that in educational life the same lead should be maintained, and to that end it is intended to establish a secondary educational institution at Kabete. I do not think it can be contested that the standard of education in a black man's country amongst the Europeans must be higher than the standard of education in a white man's country. I think that is a postulate, and although it is often the habit of Governments to criticise policy we often accept them when they are based on commonsense and they ultimately win.

The only fact that can justify Government in taking an arbitrary action against the interests of this country and against the interests of our Imperial responsibilities will be based on cost, but I do not think it is a fair or a rational suggestion to make that we should study cost at the

expense of such attainments as I have mentioned. If Government will accept the liability, the Imperial liability implied—the acceptance of that Imperial liability implied by the acceptance of this motion, then we shall be on very safe ground.

I support the motion.

LIEUT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, in rising to support the motion I also wish to endorse the remarks that have been passed by my hon. colleague, the Member for Plateau South. There is a very strong feeling indeed in the up-country districts on this subject, of which I believe the hon. the Director of Education is aware. They are very averse to the retrograde step that they consider it would be to let the present standard of education in up-country schools be reduced.

The case has been admirably put by the hon. Member for Plateau South in moving the motion, and I will not detain the House any further.

THE HON. THE DIRECTOR OF EDUCATION (MR. H. S. SCOTT): Your Excellency, I think a word on this would not be out of place from me to the hon. Members opposite who have moved and supported this motion. I should like to say that I do appreciate the terms in which the hon. Member for Plateau South moved the motion and generally the modernation with which it has been supported.

There are certain points raised specifically in the speeches of hon. Members opposite which I think I can perhaps deal with better by making out the case for the decision of the Government in this matter than by taking them piecemeal.

I think we are all agreed on certain points—that we want the best possible education for the children of the European settlers. We are also agreed that nothing must be done to render less efficient that education, wherever it may be. We are also agreed that we want to make of Kabete the best and most useful educational institution in the country. That is common ground with us all, but I would ask Your Excellency. I would ask Members of the House to examine rather carefully the terms of this motion. First of all, the hon. Member moves: "that in the opinion of this House" certain action should be taken, namely that "a careful enquiry is necessary before any decision is made to reduce the present standard of education . . . and to determine the organisation . . . of the new Kabete School and that the report of such enquiry be laid on the Table before the Education Estimates."

There are certain things that emerge from that, from the wording of this motion. In the first place the hon.

Member asks the House to record its opinion on an administrative matter in regard to which a decision has already been taken, and, if he will allow me to say so, he begs the question by saying that a decision has been made to reduce the standard of education in the up-country schools. He will allow me to say that because it is a matter of opinion—because we are speaking in a different language when he talks of the standard of education and when I talk of the standard of education.

I do not want to make a strong point of the reference to this House of matters which under the law are committed to the executive government. I have known legislatures—I can quote an extreme instance—which assumed complete control over administration by passing a short Ordinance to the effect that nothing should be done by the executive government without reference to the legislature. That could, of course, be done in regard to the Education Ordinance at present in operation in this country but it has not been done. I do submit that if a legislative body such as this House deals constantly and repeatedly with matters of administration, the tendency must be to weaken the administration and not to strengthen the influence of the House. But I do not want to make a strong point of that; I just want to mention it. But it seems to me a thing of which we ought to take some note. It is particularly difficult under the constitution of this Colony because I recognise that the Unofficial Members of this House have, in fact, a very strong share in the administration of the country by the influence they have been able to exert through the Select Committee on Estimates.

I would remind the hon. Member who moved the motion that in the Select Committee on Estimates last year an undertaking was definitely given that this matter should be the subject of careful enquiry. That careful enquiry has been made. It has been made first of all by the Education Department, in whose name I gave the undertaking. It was then referred to the statutory committee appointed to advise Your Excellency on the matter. The hon. and gallant Member for West Kenya asks whether the Unofficial Elected Members have any representation on that committee. There were two Elected Members originally on that committee and when the former chairman of the Elected Members fell out I was unable to secure a nomination for a successor to him.

CAPTAIN THE HON. E. M. V. KENEALY: From whom?

THE HON. THE DIRECTOR OF EDUCATION: That body is, I think, as representative a body of the public opinion of this Colony in regard to education as it is possible to secure. It

is independent and it represents all shades of opinion in the Colony. The hon. mover of this motion is himself a member of that body.

THE HON. T. J. O'SHEA: Your Excellency, I wish to question the accuracy of that statement.

THE HON. THE DIRECTOR OF EDUCATION: The hon. Member is, as far as I know, a member of that body, and he was certainly invited to be present, and he accepted the invitation to be present at the meeting of that body at which this matter was discussed, and though he was unfortunately unable to be present, the matter was very fully discussed at that meeting.

I should like to say here, Sir, in regard to the Central Committee on European Education, that the line which I adopted in discussing the matter with the committee was that if I could not secure general agreement I would not be able to make a recommendation to Government on a snatch vote. I think that the Government secured a majority vote on that committee for the policy which I recommended to the Government, but I preferred to leave that responsibility on the shoulders of the body on whom it rested more appropriately, on the shoulders of myself and the shoulders of Government to whom I gave that advice.

The hon. Member for Plateau South wants us to refer this matter again to a committee or a body of enquiry. To whom can we refer it? Can we refer it to the Government who have arrived at this wrong decision? Can we refer it to the statutory advisory committee? Evidently we can get no further in that direction. We must therefore appoint an *ad hoc* committee of enquiry reporting to Government. In that case I suppose—I hope I am not unduly suspicious—that it is to be a committee reporting ultimately to the Select Committee on the 1931 Estimates. If I thought that any good purpose would be served by thrashing this matter out again before a committee, I would urge Your Excellency to accept the resolution, but I cannot see what good purpose can be served by going over this old ground again with a new committee, which will be an expensive thing—and I know hon. Members opposite are anxious about expenditure, and I know they are equally anxious about expenditure on committees. The real reason that committees are of no use at the present moment is because the facts are available. We know the facts and the matter has been decided by Government with a knowledge of the facts. If the matter is going to be altered, let us alter it now with a knowledge of the facts, let us admit that we were wrong and alter the

decision in the direction asked for by the hon. Member for Plateau South. That, I think, would be a far more practical and business-like course to take, but I would submit that the decision arrived at by Government is a perfectly reasonable decision in all the circumstances of the case. That decision is, as the hon. Member has stated, that this school at Kabete is to provide for the education of children who have reached a certain standard of attainment, and also for the education of children who have reached a certain age irrespective of their attainments, within certain limits.

I do not know, Your Excellency, myself, what is the difference between primary and secondary education. Those are mysterious words—a sort of jargon with which people who are concerned with education play and use as a sort of dice or counters. So far as I understand the meaning of primary and secondary education, the distinction is not one of attaining a Cambridge Preliminary or any other examination. It is, or should be, a matter of the age or development of the boy or girl. Up to a certain age I think you can say that the child's education is of a primary character. After that age you can say it is of a secondary character. As far as I understand the meaning of the words, that is the only meaning which the words convey. I admit that in this terminological jargon of the educationists all over the world these words are used to connote a standard of attainment.

In this country we have to consider that the attainment and the age of the children of the Colony are not as they are in other countries, roughly uniform throughout the Colony and roughly comparable to the standard of attainment and age in other countries. I will come to that point later on; I only want to emphasise the fact that we must not talk—at least, I must not talk; hon. Members perhaps can talk—of the words "primary" and "secondary" as having any real meaning except as a point in a child's education when the child has reached, generally speaking, a certain age.

The hon. Member's motion deals really with two questions, he says. It deals with the standard of education in the up-country schools, and the organisation and the education of Kabete School. Those are issues which we have got to face. Let us see the grounds on which the Government has taken its decision, and if those grounds are wrong let us by all means admit that they are wrong. The grounds are twofold; firstly on grounds of economy, and secondly on grounds of efficiency. I take the ground of efficiency first because I am glad to see hon. Members opposite agree that the ground of economy is of quite secondary importance in education. I hope, Sir, when they deal with my Estimates they will bear that in mind

What is the position on the economic side? There are at present—I take the last figures at the end of last year, accurate figures; I assure the hon. Member for Plateau South that these figures have been got together by the Education Department and are really accurate—thirty children in Nakuru and Eldoret, none in Kitale, who would be affected by this change. Now, of those thirty children some would in any case not proceed further, but I assume that they all would. That is to say, in stating the case for economy I take the maximum possible charge and the minimum possible gain. Well, assume that those thirty children have all got to be transferred. Now those thirty children in those two schools divided into two groups each ought, in theory, to have four teachers to secure adequate efficiency. As a matter of fact they have two teachers and a part-time teacher. Now the saving of transferring these children would mean the salaries of those teachers. I am speaking now of the salaries chargeable to the education vote; I am leaving out of account house allowances, leave privileges, cost of passages and pensions. The minimum cost of those teachers would be £1,100 a year. Now what is the cost on the other side? I assume again that the whole of those thirty children must be boarded at Kabete, of course, they must. Of those thirty children twenty-five are already boarders and five are day boarders. I assume again the greatest amount of expenditure required on those five children who were day pupils and must be boarded free of cost by Government at Government expense. That would let us call it £250 a year; let us put it slightly higher—let us call it £250. Therefore the additional cost affecting this transfer would be £250 and the saving would be something more than £1,100; that is a saving at least of £900 a year. £900 a year—let us capitalise it, say £15,000 at 6 per cent. That is something not to be sneezed at, a saving of that kind, especially if—and this is the big advantage—especially if it is accompanied by increased efficiency. That is the second ground for the action of the Government.

How will the efficiency of these children's education and the education of the country generally be improved by this action? In the first place, the children who are concerned, the boys and girls, will be transferred from mixed schools to schools for boys or for girls, not for boys and girls. That in itself is an advantage at this stage. I am one of the people who have no fear at all in regard to co-education, but as boys and girls get older the difficulties of organisation of work, the difficulties of organisation of sport in a school where boys and girls are mixed are really worth considering. These boys and girls are mixed are really worth considering. There is naturally a tendency to develop, in the case of the boys, a greater sense of independence and freedom in a school which

is for boys only, especially for boys of, generally speaking, the same age where they are not mixed with little children. I think that we should agree that it is a bad thing to have schools where the ages range from something like 7 to 18—simply because a boy—the hobbledehoy boy of about 14 or 15—occupying an intermediate place is rather inclined to regard himself as an important person, whereas if he is transferred to a school where he is the smallest boy he realises how unimportant he is. I think that that is not a bad quality, it is not a bad thing to aim at in a young Colony where the tendency among young people is always to exaggerate their own importance.

There is a further point, a more technical point, and that is if we effect this transfer we are certainly able to give definitely more efficient teaching. We can have more uniform groups; we can use definitely specialised teachers for specialised subjects; and particularly we shall gain by having more efficient practical machinery for the teaching of practical science.

That brings me to the question of vocational training. We shall not be able to secure adequate vocational training unless we have for the bulk of that training proper training in practical science. I will again return to that point later.

There is one other point, and that is the point which I spoke of when I began to reply to the hon. Member. The hon. Member is afraid that we are reducing the standard of education in the up-country schools.

THE HON. T. J. O'SHEA: You are.

THE HON. THE DIRECTOR OF EDUCATION: We are improving the standard of education in the up-country schools. We are not maintaining at the same level the standard of attainment to which we allow children to go in these up-country schools but that does not mean we are not giving an improved standard of education. The standard of education and the standard of attainment are different things. I would urge the hon. Member to realise that the up-country schools, generally speaking the schools of this country, are at present handicapped by two most serious considerations. In the first place something like 70 per cent of the children in the schools of Kenya are behind the standard which they should normally be in. Something like 12 per cent—between 12 and 15 per cent—are more than two years behind that standard. The first thing we have got to do, if we are going to make education more efficient, is to improve the work of those children in those schools. You may talk—and hon. Members are inclined to talk—of Kabete and regard Kabete as the most important

school in the country; that is quite wrong, if I may say so. The schools that matter in the country, and in any other country, are not the secondary schools; they are the primary schools where the bulk of the children get the bulk of their education.

Might I remind hon. Members of what was said by a crusty but very able general at the end of the war, namely that the war had been won "by the damned board schools." That is a thing which we must not lose sight of. What we have to do is to improve the education of everyone in those schools, and it is only by improving the efficiency of those schools that we can make proper use of the school at Kabete.

If you have a relatively small school, such as that at Nakuru or Eldoret or Kitale, and you allow two or three children to go above the standard of work in the school; then the tendency is—schoolmasters being what they are—for too much attention to be given to a few children at the top, while the work of the remainder of the children is neglected. That is invariably the case. No amount of supervision can alter human nature. If I were a schoolmaster I should be doing what I could for such children.

We are really doing something to improve the standard of work in the up-country schools by taking this step.

Let me come to the last point, and that is the effect of altering the decision of Government in regard to Kabete as an organisation. The effect would be that we should open Kabete with from thirty-five to fifty children. We should still have to have the same expensive staff which we should require for sixty, seventy or eighty children. That in itself is a matter of some importance, but in addition, we should be organising that school without giving it the benefit of a really organised school life at the immediate start. A small unit, up to a certain point, is not of such efficiency for school purposes as a larger unit. I think that is an obvious common-sense point, but there is a further serious aspect from the point of view of economy. If we do not make this transfer to Kabete we are committing ourselves at Nakuru to additional expenditure for boarding, and I hope that hon. Members will bear that in mind. You cannot leave Kabete empty without providing more accommodation at Nakuru. That means providing probably £3,000 or £4,000 for an additional Boarding house, and very likely it means—and this is the most serious thing of all in my opinion—it means the definite postponement or some alteration in regard to the Central School at Nairobi.

It seems to me that the people in this Colony who have a real grouse in regard to education are the girls. If you take the up-country schools and the Nairobi schools what do you find? At Eldoret the girls are in the old boarding house and the boys in the new. If you take Nakuru it is the same thing. At Kabete we are building a palace for the boys. What are we doing for the girls? Nothing. If only for that reason—in order that we may proceed as rapidly as possible with the boarding and schooling of the older girls of the Colony—I would urge the hon. Member to withdraw his motion.

One last point in connexion with Kabete. If you do not take this action which we are proposing to take—and which the Government has decided to take—you will be much longer in developing the thing which hon. Members have so truly at heart, and that is the development of the true colonial spirit. You may say what you can but the Eldoret School is the Plateau school, the Nakuru School is the Rift Valley school; the Kabete School is going to be the Kenya school. Don't you want to have that spirit developed as soon as you can, the spirit which hon. Members have been fighting for and talking about so much during the last ten days?

Lastly, Sir, I should like to say that I do sympathise with the hon. Member's feelings, but there is no reason to suppose that the school at Kabete will not be developed rapidly. I believe that if I can get the assistance of my hon. friend here, the Director of Agriculture, we shall be able to do something definitely in regard to the training of boys in agricultural science. I cannot say whether he is going to help us to develop the school with a view to making good farmers or whether he will help us to use the school in order to develop good officers of the administrative services of the Department of Agriculture. In either case there is no doubt that we can do something in that direction. Whatever we are going to do in the development of these vocational subjects in the higher stages, we have to remember that we must give the boys a good, decent education first, and that will take two or three years to organise. But I want to add this word of comfort to the hon. Member. This school at Kabete should be a school with a four years' course, extending ultimately to an additional two years' course, bringing the boys up to the standard of admission for an Honours course at Oxford or Cambridge. The moment that the school fills up and is definitely a school for this higher course, I think we should allow Nakuru, Eldoret and Kitale to develop with a two years' course beyond what the hon. Member calls the "primary" stage. That, I think, would meet his case.

With regard to the age problem, I think the hon. Member is aware that we have told the people at Eldoret and Nakuru that we do not propose to force children at Eldoret or Nakuru to go to Kabete until they have reached the age of 14 and that when they have reached the age of 14 they are to be transferred to the Kabete School.

I am afraid I have detained the House rather longer than I had intended, but I have endeavoured—and, I hope, not unsuccessfully—to persuade the hon. Member that there is more in this decision which has been taken than meets the eye, and I hope that in consequence he will be able to withdraw the motion.

THE HON. T. J. O'SHEA: Your Excellency, far from wishing to withdraw the motion, I must say that it has come to me as a profound disappointment indeed that the motion has not been accepted by Government. It has come to me as a great surprise because I thought it so very reasonable and so very necessary, and in an effort to justify Government's refusing to accept this reasonable motion the hon. Member, apparently speaking on behalf of Government, has thrown out a challenge, which challenge I accept. He said that this motion challenges the decision of the executive Government already made.

THE HON. THE DIRECTOR OF EDUCATION: On a point of explanation, that is not so; I was speaking entirely on my own behalf.

THE HON. T. J. O'SHEA: Your Excellency, that just makes the position worse. We have become all too familiar in the last few weeks with the expression of that point of view by Your Excellency yourself. Now we find that that point of view begs the position of this side of the House and a most extraordinary interpretation has been given to our position here. We are told that if the interests of the public be considered, the interests of the public as expressed by Members on this side of the House who represent the public opinion, in expressing those interests, we are endeavouring to presume the executive Government, we are endeavouring to presume upon the rights of the executive. Your Excellency, I do not question for a moment the right held by the executive Government under Royal Orders and Letters Patent and all the rest of it to be responsible for the administration of this country, but I suggest, Sir, that during recent weeks an interpretation has been given to that responsibility that is an invasion of the rights of the people who represent the country that that executive is endeavouring to govern.

CAPTAIN THE HON. E. M. V. KENEALY: Hear, hear.

THE HON. T. J. O'SHEA: I say we have a perfect right by open debate in this House to challenge the wisdom of any action taken by Government in its executive capacity.

HIS EXCELLENCY: Order, order. I am allowing the hon. Member to discuss the constitutional question at great length. It was just referred to by the Director of Education, but I think I should point out to him that no one questions the right of this House to challenge the action of the Governor in Council. The hon. Member is doing so himself at this moment.

THE HON. T. J. O'SHEA: Your Excellency, I will then tackle the statement of the hon. the Director of Education from another point of view. The decision has been made by Government in the all-important matter of the education of our children. I, on behalf of the people, am very respectfully asking Government that before that decision be put into operation an enquiry be held as to whether it is in the best interests of the people that that decision should be acted upon. The hon. the Director has stated that an enquiry has already been made by the Department. If that be the case, Sir, I think he should have told us what was the attitude of the Education Committee at Nakuru; what was the attitude of the Education Committee at Eldoret; and what was the attitude of the Education Committee at such other centres as those at which they exist? He could also, Sir, have taken the country sufficiently into his confidence to make a plain statement as to what is the personnel and the composition of the Central Committee on European education. That committee was formed some five years ago. I was one of the original members of it. The Committee was treated in such a disgraceful manner by the Education Department at that time that I felt compelled to resign from it. I have since kept in close touch with it; the Department has been good enough, because of the interest I have taken in educational matters, to keep me advised of its doings to some extent, and I have responded to that courtesy by expressing my opinion on some of the matters that have come before the Board, but I have not attended a meeting of the Committee for a period of years. Who are the other members? So far as I know there is only one representative of up-country settlers on that Board, and judging from the interviews I have had with him he is at all times at variance with the ideas of the Department. I should like to know whether that solitary representative of the parents of the children who will be affected by this decision was in agreement with the Department in this matter.

Now, Sir, the hon. the Director, in the very noble statement of his case, has again relied upon statistics and again I challenge the accuracy of those statistics; and I definitely assert that they are obviously inaccurate because they have left out of consideration a number of very important matters that are going to affect the number of children enrolling for Kipate next year. Have they taken into consideration anything other than the number of children at present attending the Kenya schools? No figures quoted by the hon. Member led anyone to suppose that they took any other figures into consideration. He has confined himself solely to an analysis of the children at present attending the Government schools. He has left out of consideration entirely the large number of children who have been sent overseas for "secondary" education—using the jargon of the Department and of the profession of whom a large number would be brought back to this country if it were known in advance that Kipate Schools was going to be definitely opened in January next and would give a certain standard of education. And has he taken into consideration another very important factor—the influence the present economic situation is going to have upon the attendance of children at this school? Have his figures taken into consideration the influence what the new rate of boarding fees is going to have next year? There was no evidence whatever in his statement that any of these things had been taken into consideration and I say they are going to have a big influence upon the number of children enrolling themselves for education at Kipate next year.

The hon. the Director has said that instead of debasing the standard of education being given at these up-country schools the proposals will lift the country above the effect of depressing that education. I do not see how he can so easily make that statement because I know it to be a fact and so do many other people men of his own Department who are no longer associated with this country will be able to substantiate my statement that at these up-country schools there are forty or fifty years ago it was unknown for the children to give up education before reaching a certain standard; it is a fact, in the case of a small number, to the Senior Cambridge standard. Those children were committed upon not only by people in the country but by every visitor to this country as a bright, intelligent, well-behaved, manly group of children and a credit to the Colony; and while I know full well that to the world being taken at these schools I do challenge that statement that any improvement in that respect has been made. It is very hard to do.

THE HON. T. J. O'SHEA: I say we have a perfect right by open debate in this House to challenge the wisdom of any action taken by Government in its executive capacity.

HIS EXCELLENCY: Order, order. I am allowing the hon. Member to discuss the constitutional question at great length. It was just referred to by the Director of Education, but I think I should point out to him that no one questions the right of this House to challenge the action of the Governor in Council. The hon. Member is doing so himself at this moment.

THE HON. T. J. O'SHEA: Your Excellency, I will then tackle the statement of the hon. the Director of Education from another point of view. The decision has been made by Government in the all-important matter of the education of our children. I, on behalf of the people, am very respectfully asking Government that before that decision be put into operation an enquiry be held as to whether it is in the best interests of the people that that decision should be acted upon. The hon. the Director has stated that an enquiry has already been made by the Department. If that be the case, Sir, I think he should have told us what was the attitude of the Education Committee at Nakuru; what was the attitude of the Education Committee at Eldoret; and what was the attitude of the Education Committee at such other centres as those at which they exist? He could also, Sir, have taken the country sufficiently into his confidence to make a plain statement as to what is the personnel and the composition of the Central Committee on European education. That committee was formed some five years ago. I was one of the original members of it. The Committee was treated in such a disgraceful manner by the Education Department at that time that I felt compelled to resign from it. I have since kept in close touch with it; the Department has been good enough, because of the interest I have taken in educational matters, to keep me advised of its doings to some extent, and I have responded to that courtesy by expressing my opinion on some of the matters that have come before the Board, but I have not attended a meeting of the Committee for a period of years. Who are the other members? So far as I know there is only one representative of up-country settlers on that Board, and judging from the interviews I have had with him he is at all times at variance with the ideas of the Department. I should like to know whether that solitary representative of the parents of the children who will be affected by this decision was in agreement with the Department in this matter.

Now, Sir, the hon. the Director, in the very able statement of his case, has again relied upon statistics and again I challenge the accuracy of those statistics, and I definitely assert that they are obviously inaccurate because they have left out of consideration a number of very important matters that are going to affect the number of children up for Kabete next year. Have they taken into consideration anything other than the number of children at present attending the Kenya schools? No figures quoted by the hon. Member led anyone to suppose that they took any other figures into consideration. He has confined himself solely to an analysis of the children at present attending the Government schools. He has left out of consideration entirely the large number of children who have been sent overseas for education, for "secondary" education—using the jargon of the Department and of the profession—of whom a large number would be brought back to this country if it were known in advance that Kabete School was going to be definitely opened in January next and would give a certain standard of education. And has he taken into consideration another very important factor: the influence the present economic situation is going to have upon the attendance of children at this school? Have his figures taken into consideration also the influence that the new rate of boarding fees is going to have next year? There was no evidence whatever in his statement that any of these things had been taken into consideration, and I say they are going to have a big influence upon the number of children offering themselves for education at Kabete next year.

The hon. the Director has said that instead of debasing the standard of education being given at these up-country schools the proposals will, on the contrary, have the effect of improving that education. I do not see how he can fairly make that statement because I know it to be a fact—and so do many other people: men of his own Department who are no longer associated with the country will be able to substantiate my statement—that at these up-country schools three or four years ago it was unknown for the children to give up education before reaching a certain standard, up to in fact, in the case of a small number, to the Senior Cambridge standard. Those children were commented upon not only by people in the country but by every visitor to the country as a bright, intelligent, well-behaved, manly lot of children and a credit to the Colony; and while I give full credit to the work being done at these schools I do challenge the statement that any improvement in that respect has been made. It were hardly possible.

Again, I would emphasise that the staffs of these schools are to-day sufficient to carry on the standard of education there to the Junior Cambridge without any additional expense to the Government, and with an intimate knowledge of one of those schools at least, I do assert that because of education up to that standard being given there to a comparatively small number of children, there is no question of the junior classes.

In an eloquent effort to carry through his activities, the hon. the Director has repainted the picture which has been before our eyes for a few years past of a new school that will be, not a parochial school, but a Kenya school. May I say that I share those ambitions fully, and it is because we think this question of the status and the administration of the new Kabete School such an all-important matter to the Colony in building up the true Colonial spirit that we have taken the keen interest we have in it and we have introduced this motion this morning.

I must say, Sir, once again, that I am profoundly disappointed indeed that the Government has not thought fit to accept the motion for an enquiry. I feel that its refusal will result in great disappointment throughout the country, and it might to some extent jeopardise what might otherwise be the success of the decision arrived at; and I must also express regret that the hon. Director did not in his statement give us any indication as to what Government contemplated in the immediate future, to make it widely known what the position of the Kabete School would be. I feel certain, Sir, that if that had been done before this decision had been made the Department would have been satisfied that there was no need to reduce the educational standard of the up-country schools in order to fill Kabete, and I once again appeal to Government to carefully enquire into this matter before Kabete is established.

HIS EXCELLENCY: The question is:—

“That in the opinion of this House a careful enquiry is necessary before any decision is made to reduce the present standard of education at the up-country European schools and to determine the organisation and scope of the new Kabete Secondary School and that the Report of such enquiry be laid on the Table before the Education Estimates for 1931 are considered.”

The question was put and lost by 19 votes to 21.

Ayes: Mr. Cobb, *Lieut.-Col. Burdinn*, Mr. Conway Harvey, Capt. Kenealy, *Lieut.-Col. Kirkwood*, Messrs. Mitchell, O'Shea, Major *Robertson-Farlane*, *Lieut.-Col. Lord Francis Scott*, Col. Tucker.

Noes: Messrs. Bale, Bennett, Brassey-Edwards, Campbell, Dobbs, Fitzgerald, Dr. Gilks, Messrs. Goodship, Holm, Horne, Howell, Canon Leakey, Messrs. Macgregor, Malik, Martin, Maxwell, Montgomery, Moore, Scott, Sir Ali bin Salim, Col. Wilkinson.

ORGANIZATION OF ADMINISTRATIVE OFFICES.

THE HON. T. J. O'SHEA: Your Excellency, I beg to move:—

“That in the opinion of this House the Wade-Mayer Report on the organization of Administrative Offices emphasizes the urgent necessity for reorganization with a view to decreasing cost and increasing efficiency.”

At the outset, Sir, may I add my word of praise, which has already been given by Your Excellency, to the authors of this Report: It is obvious that they performed their work very conscientiously, very thoroughly and very successfully. But there is one point on which I must criticise them rather severely. So far as I am aware, they interpreted their instructions in such a narrow manner that they did not consider it necessary at any point in their enquiry to consult the public as to how these administrative offices reacted upon the public in the carrying out of their functions; nor do they appear to have made any enquiries as to the effect upon the public of any suggestions they contemplated making to Your Excellency. That is a very great shortcoming, because after all, when you come to consider it, these offices—even though they are part of the executive of Government—do exist for the convenience of the public. Had they thought of that implication in the terms of reference, they would, I feel certain, not have committed themselves to Recommendation, No. 1, in which they suggest that the hours during which some of these offices should be open to the public should be cut down even below their present period. I have had some correspondence with Government on the subject, and, quoting from memory, I think the normal hours at these offices per week are thirty-four. Thirty-four working hours, and it is now suggested that in certain branches of their activities they should be closed to the public an hour earlier per day, reducing to twenty-eight hours per week the period of time in which these offices—which exist for the convenience of the public—should be open to the public.

Now, Sir, one of the things I should like to know from Government is whether it is contemplated that that recommendation should be put into operation. If it is, then I can only say that, however Government may economise in other directions, it is completely losing sight of one of the most important ways in which this country can be run economically,

and that is that every man and woman in the Service should give a fair day's work for a fair day's pay; and to suggest to him that he should work thirty-four hours per week, in which twenty-eight only will be before the eyes of the people whose existence justifies his existence—if that is called a fair day's work—for a fair day's pay, then I can only say that my view differs very considerably from Government's. A thirty-four hours' week is a beautiful ideal, but under the economic conditions of this country I suggest it is one that should not be acted upon.

I should also like to challenge the statement made in the Report that the staffs are very much over-worked in a lot of these offices, and that in actual fact some of them have been open till 7 o'clock in the evening for the convenience of the general public. If there are any such offices I should like to hear about them, not in vague general terms like that, but by name, because I have made enquiries and in no case have I heard of anything of the sort. In the district with which I am most familiar no such conditions exist. The offices are closed at 4 o'clock—indeed they are closed at 3 o'clock to the public in certain ways, and they do not open till 9 o'clock in the morning. The boys are there cleaning out the offices about 4 o'clock, and the golf course is quite crowded after 4 o'clock, and, while I do not for a moment suggest that the staffs of these offices are not working to the best of their abilities during the actual office hours, I do most emphatically deny that they are overworked and that they are ever for the convenience of the public kept open till a late hour in the evening, either for the collection of revenue or for any other purpose.

It is also to be regretted, Sir, that the Report does not make any recommendation as regards the importance of having in these offices somebody other than the most highly paid who are competent to deal with the public. I am, of course, talking to a House largely made up of men who know this subject very intimately, much more intimately than I do, and that being the case, I would ask them for an expression of opinion as to whether or not it is economy that men drawing very high salaries should be the only people in these offices who are competent to deal with the average public enquiry; that the alternative in many cases to the administrative officers themselves, highly paid administrative officers, dealing with the public, the only alternative is handing the public over to people who have a very limited intelligence in dealing with the public, a very limited knowledge of English, and who are hindered by acute self-consciousness and, shall we say, shyness. I share to the full the view that many of the non-European staff in these offices are very good servants of Government

within their limits, but their limitations certainly do not permit of their dealing with the public in anything like a reasonably efficient manner. There is no recommendation in this Report as to the necessity of having somebody other than the most highly paid officers who is competent to deal with the public.

During the last twelve months or so Members of this House have been inundated with reports of some sort or another, and I ask them whether it is not the case that this one stands out as an exception in that it has a highly humorous element. I should imagine that it has occasioned quite a lot of humour not alone to the Members of this House but to a much wider public. It is, for instance, very amusing to read—at least it is to me at any rate—that it should be necessary to keep at a small office like Thika no less than nineteen different receipt books, one of which has to do with the issuing of liquor licences to steamships; that it was necessary to keep over sixty receipt books for the purpose of issuing receipts under the Traffic Ordinance, and that when the officer responsible for issuing a receipt was called upon to do so he had to dive down into big boxes and rummage about among those seventy-nine receipt books to find the particular one he wanted, and I suppose, as it usually happens in such a case, it was the seventy-ninth which was the one which he wanted.

Then again I learn that the unfortunate District Commissioner out in South Nyeri has to write up no less than one hundred forms per month to show what revenue he has received, and that he has to write up something like fifty or sixty forms to show what expenditure he has made. That certainly sounds to me humorous, but I think the limit is reached when one finds that the cash return has to have no less than twenty-three columns so that the Treasurer (unfortunate man) will be made aware as to how many forms of specie and notes there are according to the different denominations.

Those are the humorous elements, or some of them, but I think any unbiassed critic going through that Report must agree that it shows the most lamentable incompetence, the grossest extravagance and waste, and a complete failure on the part of Government to understand the first thing about the organisation of administrative offices. From end to end it recites evidence of the utter inability of Government to understand how offices might be, could be and should be organized. I have never in my life read a more condemnatory document than this. Now I do not hold the administrative officers to blame for this. After all, the qualifications on which they are selected are not specially designed to enable them to organise those offices on business-like lines or on reasonably rational

lines. They are expected to be good sports, know how to play the game, be able to win plenty of Waterloos, but the ability to read, write and spell was never expected of the average public school boy, and I am afraid that it would be absolutely unfair to expect the new administrative officers to be any better equipped for this particular job of organising their offices because, in addition to all the other things that they are expected to know, they will be expected to have a working knowledge of one of the new all-important sciences in Africa. From lapse of memory, Sir, I forgot that we have recently been informed that in addition to all his other qualifications the new officer must have at least a smattering of knowledge of anthropology, and apparently he is expected to give up a lot of his time to developing that knowledge and applying it for the welfare of the native races.

So I say, Sir, that in order to derive any benefit from this very valuable Report Government will have to recognise that it is no longer possible and it is no longer fair to expect the administrative officers themselves to be responsible for the organisation of their departments; that they should take the point of view, as taken by all reasonable people outside Government circles who have to organize offices, and recognize that that is a particular job in itself and that people have to be qualified for it, and that there is a real economy in employing people who do understand the job and who can carry it out. As evidence, it is very difficult to get Government to appreciate what might be termed the commercial point of view. It will be within the recollection of the majority of Members of this House that for some years we on this side impressed upon Government the great saving in money and in time and the great saving to the temper and nerves of officers themselves that would result if competent stenographers were employed in Government offices, and yet to-day we find, Sir, that recognition of the necessity for this does not extend to administrative offices. From my experience I come into contact with them to some extent—I am astonished that it has not already been recognised that we are wasting hundreds of pounds every year by leaving it to these highly paid officials liberally to write out their letters and hand them over to be typewritten to people with a small smattering of the knowledge of the language in which they are written, and cause them back and correct them and hand them back again to be reprinted, and on occasions to be retyped a third time.

The financial arrangements in the offices, Sir, are the most absurd that I have ever heard of in all my life. I can only describe them as "nut-tin-in gone mad." In an effort to achieve security and completely eliminate the margin of

risk, they have been developed to such an extent that I should imagine the cost of administering these financial red-tape regulations must be far in excess of any loss that could possibly occur as a result of adopting what one might call more humane methods. It is recognised in every other branch of activity other than Government that completely to eliminate the margin of risk in this way is an impossibility except at colossal cost. I believe that in at least one Department, which deals largely with the public, the Post and Telegraph Department, it is frankly recognised, but in no other Department, I suggest it would be an immense saving in cost if Government were to get rid of this burden of red tape and get down to a reasonable method of handling its office organisation.

Now Sir, there is one extraordinary statement in the Report, and as it really goes to the root of the matter, I should like to give it some attention. On page 50 the authors of the Report state that they have given consideration to the question of the greater employment of Europeans on the clerical staff and had come to the conclusion that no great saving could be effected by so doing. Now at first sight that is a most extraordinary statement for two such capable men to make, but when one comes to analyse it one can see that there is a lot of justification for what they have said. They were, of course, thinking of the employment of Europeans in the terms of the present cost of Europeans in the Service, and of course we are made aware that the present cost of European staff in the lower grades of the clerical service is so out of proportion to the value of the work they do, that the general employment of these people could not be recommended. Let me not be misunderstood. I entirely share the view taken by these people that the non-European staff of Government are giving exemplary service, and within their strict limitations they are admirable employees. There is no question about it that owing to the frequent changes of European staff in this Colony the administration would break down were it not that in the past you have had the services of these Goan and Indian clerks. They are the most faithful and hard-working and most admirable people I have ever come across, and how they have tolerated the state of affairs they have had to put up with for years in the past I do not know. But against that it must be realised that they have not the qualifications from any point of view to do the work that it is necessary for these people to do under existing conditions. Times have changed since the old faithful Goan awaited your return from *safari* in the evening and worked half the night to get the job ready for you the next morning. Those times have gone past, and while he was all right to work under the

conditions that then existed, some altogether different qualifications are needed for the Service as it exists to-day and as it is likely to develop in the near future. I suggest, Sir, that this question of the employment of more European clerical staff should be given a very much fuller investigation than obviously has been given to it by these two gentlemen.

It is a fact that there are comparatively large numbers of Europeans in the country competent and willing and anxious to take up these jobs. It is a fact, Sir, that they are doing the same work efficiently outside Government service at very much less than the salaries that would be paid to them for that class of work if they went into Government Service. In fact, one of the difficulties of the commercial man and the industrialist in this country to-day is that Government is competing with them on such unfair terms for this class of work that they are at a great disadvantage. In consequence of the conditions which prevail in the Service to-day it is the ambition of practically every clerk and typist in the Colony to find a job in Government Service, and I say, Sir, that that is unfair to the country from every point of view, and I think that if the subject were properly investigated it would be found that in making the radical alterations that on this Report you have got to make in these offices, you could find at reasonable cost a better class of labour to carry out your requirements more economically. Also I think it should be borne in mind that with the big improvements in education promised this morning and with the rapid advance in the number of children in the Colony who will be looking to Government for such employment in the near future, it is only right and proper that provision should be made for them and that they should be borne in mind more in reforming those offices than presumably Government has given to date.

I have framed my motion, Sir, to read "emphasizes the urgent necessity of decreasing cost and increasing efficiency." Now there can be no question that on this Report there has got to be increased efficiency. That Report discloses the most inefficient office organisation that could be imagined. It is equally obvious that it is a very simple matter indeed to increase efficiency to some extent, but I do sincerely hope that the Government is not going to content itself with merely tampering with this question but that it will get down to the root of it and reorganize these offices on sound lines from the bottom and give us a really efficient administrative system.

It is invariably the habit of Government that when they are doing something that is obviously desirable the cost must be greater. Now, Sir, I say that in this case there is not the slightest justification for one penny of increase in the

case of running these offices very much more efficiently. The system disclosed as at present in operation is such as to take up the time and ability of three people where one should do, and the economies effected in putting these offices in order and running them on more efficient lines should more than cover any increased expenditure that may be necessary in a system of redistribution.

It is urged that in certain offices an increase in staff is required, but that increase in staff should most decidedly come from the offices where those extraordinary methods are now taking up the time of half-a-dozen clerks. Two reasonably efficient clerks would do. I see the system in operation in my own district and I have no hesitation in saying that the organization of those offices is such that they can be reorganized to give very much increased efficiency at a very much lower cost, and I do sincerely hope that Government will definitely accept the obligation to carry that out.

THE HON. W. C. MITCHELL: Your Excellency, I beg to second the motion that has been proposed by the hon. Member for Plateau South; and in doing so, Sir, I wish to be extremely brief so that I may—the sitting of this Council being somewhat expensive—practise the economy which we are now endeavouring to preach.

The position of the world's markets to-day has made economy absolutely necessary on the part of every one. People are setting their houses in order, introducing economies and effecting adjustments in costs, practices which are somewhat difficult in the case of Government Departments where salaries and terms of service appear to have been fixed regardless of the most crying need for any economic adjustment. Economy can be effected in Government Service by means other than the reduction of salaries, and I think the Report which we are discussing and the way in which the motion has been proposed by the hon. Member for Plateau South makes that quite evident.

I do not propose to go in detail into the Report but we have forty-one recommendations made by gentlemen who have visited practically all the district offices and, although we might not be prepared to support everyone of those forty-one, it is at least apparent that reorganization is indeed necessary. In making this assertion, Sir, I do not wish—I am sure the hon. Mover did not wish—that this should be treated in any way as an attack upon any individual Government official or Government officials. It is an attack against the machine, against the system which, according to the Report ties the hands of administrative officers and under which they are compelled to undertake and discharge tasks which can be of

no benefit to any other department of Government or to the Colony. These duties have grown with the passage of time, they have become a routine undertaking, but it appears obvious to us that the original intention and value of the work has been forgotten, and these tasks have now become embodied in the general mass of detailed work which these officers are expected to carry out.

I beg to second the motion.

HIS EXCELLENCY: The question is:—

“That in the opinion of this House the Wade-Mayer Report on the organization of Administrative Offices emphasizes the urgent necessity for reorganization with a view to decreasing cost and increasing efficiency.”

CAPTAIN THE HON. E. M. V. KENEALY: Your Excellency, I wish to support this motion. It has already been suggested to-day that we on this side of the House have not the right to criticise the executive actions of Government or participate in debates which will conflict with the executive actions of Government. While it is difficult to contradict that ruling yet, Sir, we see the necessity for Government utilising that ruling to defend itself against the policy . . .

HIS EXCELLENCY: Order, order. The hon. and gallant Member probably recognises that no such ruling has been given.

CAPTAIN THE HON. E. M. V. KENEALY: I am very happy to hear that no such ruling has been given because it will enable motions dealing with executive actions to be the subject of criticism from this side of the House. We have gathered, Sir, that motions expressed in terms of flattery are readily accepted by Government, but motions embodying any form of criticism in an honest and manly way of Government . . .

HIS EXCELLENCY: Order, order. I do not know what ruling the hon. and gallant Member is discussing but I must ask him now to deal with the motion before Council.

CAPTAIN THE HON. E. M. V. KENEALY: Your Excellency, to continue. One finds in this Report certain peculiarities. One finds that a new form of taxation is suggested. I believe, Sir, that you will agree that it is rather an unfortunate thing to find in a Report which we do not even know yet that Government has accepted. This Report has not been before this House. We are asked in this motion to endorse one of its ultimate ideals and we find it very easy to support those

ideals, but when we find certain methods of taxation embodied in the recommendations of this Report we cannot associate ourselves with them. In one of the recommendations, for instance, it was suggested that a particular form of taxation for petrol should be imposed in lieu of the present existing one. Of course we cannot associate ourselves with that kind of thing.

But, Sir, although the Report deals in detail in its forty-one or forty-two recommendations with actions which Government might take to gain greater efficiency or greater economy, we on this side of the House recognize that the whole of the Report could have been condensed into a very few words and those few words have been that Government in its executive action and its administration should use commonsense. I support the motion.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I do not wish to detain the House for long. I do hope, Sir, that not only will Government take action on the recommendations in this Report, but that they will follow it up with even a greater measure of reorganization with a view to decreasing cost and increasing efficiency by thoroughly overhauling the whole system existing in this country with regard to the relationship between the Secretariat in Nairobi and the Provincial Commissioners and the Heads of Departments all through. I am quite sure, Sir, that the system in this country which started in the old days when the thing was small and the work was much less than it is now and which could be carried out efficiently in those days has now grown to such dimensions that it is top-heavy and the Colonial Secretary of this Colony is weighted down under an unnecessary burden of files which must necessitate his having to spend far too much time in office work instead of getting round the country and seeing everything that is going on. I do believe, Sir, that some big system of decentralisation and giving both Provincial Commissioners and Heads of Departments greater responsibility and greater trust could be arranged, which of course has the corollary that if they do not do their jobs properly they must go. That is the right system which I believe would really achieve a much greater measure of both efficiency and economy and instil a greater sense of *esprit de corps* throughout the service of this Colony.

THE HON. C. M. DOBBS (SENIOR COMMISSIONER, NYANZA): Your Excellency, there are one or two points in the remarks made by the hon. Member for Plateau South that I should like to refer to.

One is the point he made with regard to the suggestion that offices should be closed at 3 o'clock. I do not know whether it would be possible to close even a part of the office at 3 o'clock, but I should like to draw attention to the fact that the only suggestion is that the cashier's part of the office should be closed at 3 o'clock. There is no suggestion that any other part should be closed, and in this connexion I would point out that the banks close at 3 o'clock but, as all hon. Members will know, they work till 6.30. It does not in the least follow that because the cashier's part of the office closes at 3 o'clock that his work is done for the day. He has got a tremendous lot of work in balancing his accounts and getting his books in order, and that he cannot do as long as he is worried every few minutes by odds and ends of little sums coming in to be paid and entered up. I just wanted to make that particular point.

With regard to his statement that offices close at 4 o'clock, my experience has mostly lain in the offices in the large Native Reserves. I do know that in towns offices close much more regularly at 4 o'clock than they do in out-districts; many offices out there do not close till long after 4 o'clock, and most District Commissioners—I know I myself always have to work before breakfast and late at night, too. I can say that every District Commissioner I know has to do that, and his clerks do it too, so that to say that we work only so many hours a week is not altogether correct.

With regard to the suggestion that European clerks should be more largely employed, I have thought about that a good deal and I do not think that they would be altogether successful in these out-districts. I do not think that the hon. Member for Plateau South said that they were employed by commercial firms to any great extent at the moment except in towns, and I do not think they would be very suitable for work in out-stations. I think they would find themselves like fish out of water.

With regard to his remarks about red-tapism, I do not think anything that the hon. Member said on the subject or could say on the subject would be likely to be stronger than what the administrative officers have said in the course of their careers from time to time.

With regard to his statement that possibly two clerks might do the work, I do not think that in a large out-station like the Kavirondo district, where there are well over 300,000 natives, it would be possible to do with less than three. The court clerk has got an enormous amount of work to do in connexion with cases of all kinds, civil and criminal; he also does the police work and the prison work—that is a full-time

job. The cashier has also got a full-time job to deal with the enormous revenues that are collected—there is no question whatever about that. The correspondence clerk, who deals with office organization—or does his best to deal with it—also has a full-time job.

THE HON. W. F. G. CAMPBELL (SENIOR COMMISSIONER, UKAMBA): Your Excellency, I regret that I have to agree with some of the remarks of my hon. friend, the Member for Plateau South, but certainly in the world of sport I am afraid the results which have been apparent in the last few days in Mombasa clearly prove that hon. Members on this side are not in a position to devote that amount of time to games they would all like.

I will not refer at length to the matters which the hon. Member for Plateau South has put up because the Senior Commissioner, Nyanza, has replied to them at some length, but I do not think that the hon. Member for the Plateau speaks with any knowledge of native areas. In places like Kitui and Machakos and Fort Hall and Nyeri I do not think it is any hardship to the public not to be able to attack the District Commissioner, or even the Provincial Commissioner, after 3 o'clock in the afternoon. As the Senior Commissioner, Nyanza, said, there is a vast deal of work to be done after hours of which the public knows nothing. We have to conform to certain financial regulations, and it simply cannot be achieved before about 4 o'clock. The District Commissioner—or, in his absence, the Assistant District Commissioner—has to check all the cash every day, and that, I think every one will admit, is a most necessary item. In very few out-districts are officers seen either on the golf links or the tennis courts before 5 o'clock.

As regards the suggestion of the hon. Member for Plateau South to employ more white clerks, I would remind him that the experiment has already been tried and proved a failure here in Mombasa, at Kyambu and at Nyeri. As the Senior Commissioner, Nyanza, said, the life of a European clerk in places like Kitui or Machukos would be extremely lonely. There are only two diversions, practically speaking, open to him: one is to take to alcohol, and the second is to marry the District Commissioner's nurse—they are both unpleasant contingencies.

I would just like to say as regards the hours referred to by the hon. Member for Plateau South, who spoke of the comparatively few hours' work, that all our work is not concentrated in offices. The ordinary District Commissioner or Assistant District Commissioner, or in some cases the

Provincial Commissioner of more junior years, is out at work at 6.30 in the morning. He goes round to the District Commissioner and gets back to a very hurried and badly cooked breakfast; he has to put in an appearance at the office at 8.30, and there he remains till 12.45. I think the Senior Commissioner referred to the close of the day, so to speak; I refer to the beginning of the day.

Another point I should like to make is this, that in out-districts where a large amount of revenue is collected, the District Commissioner, as happens very frequently, is hauled out of his bed at all hours of the night. I have had to go to the office at 11 o'clock at night to receive large consignments of cash sent in by the District Commissioner or Assistant District Commissioner who has been collecting cash. That cash has to be received by a European officer in the station. He pays no attention to office hours if a large amount of cash comes in; he goes out of his house and makes himself responsible for it. It is not altogether fair to say that we rigidly adhere to certain office hours because we do not, Sir.

THE HON. THE COLONIAL SECRETARY: Your Excellency, there are one or two points which I should like to make with reference to the motion now before the House. In the first place, I feel I can, on behalf of Government, give the hon. Member the assurance which I take it is really the object of his motion, namely, that as a result of this Report of the Wade-Mayer Committee, the Government is earnestly considering their recommendations and is as anxious as he is to increase the efficiency and to minimise the cost of the administration.

I do feel, Sir, however, that perhaps in certain respects he has been hardly fair on the administrative officers. Whether or not he intended to do so, he really left us with the impression that most of their activities were devoted to the golf course or something of that sort, and he further gave us, I think, to understand that in his opinion working hours in Government offices were quite insufficient and the amount of hard work put in possibly negligible.

Well, Sir, I do feel—what is the good of Government agreeing to appoint a special committee of enquiry and allowing the personnel to go round the country and give their report if the hon. Member on matters of fact, which presumably they have investigated on the spot, tells us quite frankly that he is not prepared to accept the suggestion that good work is being done? If he will turn to the Report itself he will observe that no less than twenty-six offices were visited and the report of the committee is that: "at almost every office we were informed that the work is more than the

staff can manage within the recognized office hours and that most of the clerks regularly work overtime. We are satisfied that this information is entirely correct and that under existing conditions overtime work is inevitable."

I do not suggest for a moment, Sir, that we should adopt all the recommendations made in the Report. By increased efficiency we may perhaps be able to reduce that overtime work, but I do think—unless he has a very large volume of evidence which he has not given to us with which to review the considered opinion of these two gentlemen—that at least he should give the administrative officers and their subordinates the credit that they are, I believe, working hard and conscientiously under very difficult conditions.

The other point that he makes is that despite the fact that certain recommendations in the Report involve a certain amount of additional clerical assistance, he considers that no extra financial expenditure need be entailed thereby. I think in that respect, whether or not it will be found—and I do not want to be misunderstood—I am as anxious as he is, if we can by reshuffling clerks to save expenditure—but I think perhaps he has overlooked the other aspect reflected in the Report, which is that in certain cases I think, the offices themselves and the office equipment in those offices is so utterly deplorable that it is impossible to effect efficient office organisation with the tools and implements at the disposal of the offices concerned. The expenditure may not be heavy, but expenditure such as file cabinets, improved filing systems and things of that sort, if I read the report aright, are fundamental if we are going to get these offices run in the manner in which we all wish.

Finally, we are up against, shall I say, the red-tape entanglements of Financial Orders. A great many of the recommendations in the Report are contingent on certain of these existing Financial Orders being cancelled altogether.

I am very sorry that owing to ill-health my hon. friend the Treasurer is not here to-day. The Government has already actively taken up these recommendations and has received representations both from the Treasurer and from the Auditor in respect of them, and I hope that as a result of going into these matters further with those financial officers we may be able to reduce most considerably the number of routine returns and things of that nature which at present take up so much time in these district offices. But at the same time I would remind hon. Members, though I feel sure they will tell me that no such argument is necessary, that Government is not a business institution. For better or for worse our financial arrangements are on stereotyped lines;

they are quite definitely not on the lines of ordinary commercial practice—and there are quite good reasons, I think, in many cases constitutional reasons, which have made that necessary in the past at any rate, and therefore, however much we may hope—and I hope we shall gradually cut down the amount of routine requirements—I do hope hon. Members will realise that you cannot entirely run Government accounting work as business accounting work is run, however efficiently we can run it. Although we realise and appreciate the value of the experience we get from business men as to improving our methods, there are certain fundamental details in the structure of our accounts which I fear may make it difficult to go the whole way which perhaps some of the hon. Members opposite would wish us to go. But, Sir, I know I may on your behalf assure the hon. Member that we are at one with him in the desire to improve the efficiency and reduce the costs of this Administration.

THE HON. E. POWYS COBB: Your Excellency, I desire to support this motion because I believe it is entirely necessary and has an object which, to a large extent, can, with goodwill, be attained with great benefit to this Colony.

I have listened to the speech of the hon. the Colonial Secretary with the greatest disappointment. All he has offered this House is yet another assurance—and I would remind him that Government assurances have got to be lived up to. This Report has been in print for two-and-a-half months—three-and-a-half months—and one could have hoped that in that period various things could have been done and that the Colonial Secretary could have informed this House that progress has been made in the directions indicated in the Report. He says that he is hampered by inefficient offices and inefficient office machinery. Now surely there are many recommendations in this Report, many crucial recommendations which have nothing to do at all with office accommodation or office personnel. On the other hand, if the conclusion of the commission, as set out on the last page of the Report is a correct conclusion, then the adoption of their recommendations would actually relieve the congestion both in the offices and in the need for clerical equipment.

I am extremely sorry that Government to-day has not been able to give any report of progress, as I should have thought that in three-and-a-half months something would have been done.

THE HON. T. J. O'SHEA: Your Excellency, I am sorry that, having to get a lot off my mind, I did, in an effort to shorten my remarks as much as possible, say anything that

conveyed the impression that I meant to be unfair to administrative officers. On the contrary, my whole aim was to attack the system. I have found that it is just the same in Government circles as in commercial and industrial enterprises. The higher you go up the scale the harder you find the men working, and it has been my experience—and I do not mind bearing testimony to it—that in Government service the higher you go up the harder you find a man working; so if I said anything to convey the impression that the average administrative officer clears off early I did not intend to. What I meant to convey was that so far as the districts with which I am experienced are concerned I have never seen any evidence to support the statement in the Report that to meet the public convenience offices are kept open and the clerical staff are kept going until 7 o'clock at night for the convenience of the public.

In reply to a point raised by the hon. the Colonial Secretary, I recognize of course, Sir, that provision has got to be made for such capital improvements in the way of appliances and equipment as are necessary to carry out any reorganization scheme—that I took for granted—but in a readjustment of staffs there should be no question of increased cost because if the recommendations of the Report are carried out to any extent it must result in a decrease in the amount of absolutely unnecessary work that is carried on at present and so a saving of staff.

I think there is justification for the hon. Member for the Rift Valley in expressing his disappointment that the hon. the Colonial Secretary did not make some report of progress. I may say, Sir, that Members on this side of the House will confidently expect . . .

THE HON. THE COLONIAL SECRETARY: If I may be allowed to say so, Sir, on a point of personal explanation, with regard to perhaps the most important recommendation of the Committee, the question of a central revenue registry, Government has already taken action on that; a Committee has been appointed and is now enquiring into it.

THE HON. T. J. O'SHEA: Thank you, Sir. Members on this side of the House will certainly expect, when they come to deal with the 1931 Estimates, a very full report on the progress that has already been made by Government in carrying out the reorganization of these offices and its intentions as to the coming year.

I thank you, Sir, for the information that Government will, in the terms of the motion, do everything in its power to effect economies and to decrease the cost of these offices.

HIS EXCELLENCY: I understand that the hon. Member does not wish to press his motion?

THE HON. T. J. O'SHEA: I thought it was going to be carried, Sir.

HIS EXCELLENCY: The question is:—

“That in the opinion of this House the Wade-Mayer Report on the organization of Administrative Offices emphasizes the urgent necessity for reorganization with a view to decreasing cost and increasing efficiency.”

The question was put and carried.

BILL.

THE LOCAL GOVERNMENT (RATING) (AMENDMENT) (NO. 2) BILL.

HIS EXCELLENCY: In view of the fact that the Local Government (Rating) (Amendment) (No. 2) Bill ought to have been passed yesterday but was delayed owing to the unfortunate illness of the Attorney General, and certainly should not be delayed beyond to-day, I hope that hon. Members will agree to the passing over of the next two items in the Order of the Day and the taking of that Bill immediately. It is nearly 12 o'clock now.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that Council resolve itself into a Committee of the whole Council for the consideration clause by clause of the Bill to amend the Local Government (Rating) Ordinance, 1923.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I beg to second.

The question was put and carried.

The Council went into Committee.

In Committee.

THE LOCAL GOVERNMENT (RATING) (AMENDMENT) (NO. 2) BILL.

The Bill was considered clause by clause.

Clause 2.—Finality of Notice fixing Mombasa rate for the year 1929.
THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that this clause be amended by deleting all the words after the word “concerned” in the sixteenth line of the clause.

THE HON. GOWAY HARVEY: In the absence of any Member for Mombasa, Your Excellency, I have been asked to raise one or two points in connection with this, which may or may not be in order at this stage. I am sure Your Excellency is the judge of that.

As it is highly desirable for these changes to be introduced with a maximum of goodwill I think that Government might possibly welcome an opportunity of giving publicity to a further explanation of one or two points which arise, I suggest, in these amendments.

It is the opinion of most of the people concerned on the island that it is grossly unjust to make interest payable on the rates before they have been legally increased, and what I wish to know, Sir, is whether this clause under discussion does force people to pay interest on the amount charged from the original date some time last year?

THE HON. THE ATTORNEY GENERAL: The clause which we are discussing does no more than declare the notice to be valid, the invalidity being that twenty-nine days' prior notice was given instead of the statutory thirty, but Sir, it is my intention presently, as hon. Members will see from the Order of the Day, to move the inclusion in the Bill of two new clauses, one of which validates the rate and the second validates the roll. The effect of the validation of the rate and the first of these clauses to be accepted will be that interest will be due on unpaid rates as from the date of the demand until the date of payment; it is not under this amending Bill, Sir, but under the parent Ordinance that interest is at present accruing due in respect of all unpaid claims.

HIS EXCELLENCY: The question is that clause 2 be amended by deleting all the words after the word “concerned” in line sixteen of the clause.

The question was put and carried.

Clause 3.—Finality of Rate for 1929.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that there be inserted in the Bill as clause 3 the clause dealing with the finality of the rate for the year 1929 which hon. Members will find in the Order Paper, namely:—

“3. The said rate declared by the said notice to be due and payable on the date so fixed shall, notwithstanding any thing contained in the principal Ordinance, be deemed to have accrued due and payable on the date so fixed and shall be binding on all parties concerned, and shall not be liable to be contested by suit or otherwise.”

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: Your Excellency, it is quite clear, and I understand that it has happened in Nairobi and other big cities of the world, that municipal development in its earlier stages requires occasional readjustment. The particular matter which in my opinion requires the most attention to be made of the Valuation Roll when that Roll comes up for revision.

HIS EXCELLENCY: The next clause deals with the Valuation Roll; this clause deals only with rate.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: Yes, Sir.

HIS EXCELLENCY: Does the hon. and gallant Member wish to discuss the rate?

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: No, Sir.

HIS EXCELLENCY: I will call upon the hon. and gallant Member when we come to the next clause.

THE HON. SIR ALI BIN SALIM (LIWALI FOR THE COURT): I am very sorry this question of the rate has ever been raised. I know people believe that most of the land owners are complaining of the rate; that is not the case. The rate is very fair. I have been saying that all along, and if you remember, Your Excellency, I mentioned at Government House in Nairobi that the rate was fair. It is the other things that are stopping the land owners paying the rates. The validity of the Roll will come up later, but the rate is very fair.

THE HON. E. POWYS COBE: Your Excellency, on the point raised by the hon. Member for the Lake, I did not quite follow the hon. the Attorney General's reply. I think he said that interest would be

chargeable upon the rates in arrear as from the date on which under the original notice they were due for payment. If that is so, Sir, might I make an appeal? Is that altogether fair under the circumstances? A bona fide mistake was undoubtedly made, not by the ratepayers but by the authorities collecting the rate, and is it altogether fair that interest should be charged on rates under those circumstances?

THE HON. THE ATTORNEY GENERAL: Your Excellency, I have the misfortune to be a lawyer and law is not always equity, but an appeal to fairness I cannot help listening to. I can give the hon. Member a little information which has just been handed to me this moment—in the circumstances the Municipality are prepared not to insist on interest.

THE HON. E. POWYS COBB: I am very glad to hear that, Sir.

CAPTAIN THE HON. E. M. V. KENNELY: Your Excellency, may we have a statement from the legal authority as to why this matter should be excluded from the court?

THE HON. THE ATTORNEY GENERAL: I take it, Sir, that the hon. Member is referring to clause 3 in respect of which the question has just been put, I think, Sir. The reason I thought I made—I endeavoured to be clear in my speech on second reading. There has been an organized and a deliberately organized opposition to the payment of those rates. Point after point has been taken on behalf of the ratepayers on non-demand notes have been served. This is the fourth amending Ordinance which we have passed in the ten months in which I have been in this Colony. None of those Ordinances has had the effect we desired, the effect of overcoming the opposition and bringing the ratepayers into a frame of mind when they will realise and discharge their civic obligations. Most of the points that were taken were unsuccessful; they were had delay going from court to court, and that delay meant a still longer lag during which the Municipality was without funds and had to come back to the Colony as a whole for financial assistance. The time has come when, in the opinion of Government, the people who are responsible for this agitation should be fought with their own weapons. They are deliberately using the courts, not for the removal of injustices and wrongs, but merely as a means of delaying payment by them of what is due and what they know is due; that, Sir, is a misuse of the courts and I can see no hardship in saying to them that that misuse must now cease.

HIS EXCELLENCY: The question is that the following clause be added at the end of the Bill:—

“3. The said rate declared by the said notice to be due and payable on the date so fixed shall, notwithstanding anything due and payable in the principal Ordinance, be deemed to have accrued due and payable on the date so fixed, and shall be binding on all parties concerned, and shall not be liable to be contested by suit or otherwise.”

The question was put and carried.

Clause 4—Mombasa Valuation Roll declared final and binding.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that there be added after the new clause 3 of the Bill clause No. 4 in the Order of the Day, dealing with the declaration of the Mombasa Valuation Roll to be final and binding:—

“4. For the purpose of removing doubts it is hereby declared that the Mombasa Valuation Roll signed and certified by the President of the Valuation Court appointed by the Municipal Board of Mombasa on the 12th day of March, 1929, is fixed and binding upon all parties concerned, notwithstanding anything contained in the principal Ordinance or in any Ordinance

amending the same, and no action contesting the said Roll shall be entertained by any Court in the Colony: Provided always that the said Roll shall be subject to the provisions of sub-section (1) of section 3 of the Principal Ordinance relating to the revocation of rateable property within the Municipality of Mombasa.”

On that, Sir, I might possibly forestall the hon. Member for the Coast by saying that, although the statutory obligation to effect the revaluation does not fall upon the Municipality for some time—the statutory period is five years or such longer period as Your Excellency may declare—it is the confident hope of the Municipality that a revaluation, the valuation of improvements, will be done at a very early date and will be effective to control the rates for 1932.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: May I just add, Sir, on behalf of the taxpayer, that I welcome the announcement made by the hon. the Attorney General. I think I am justified in this.

CAPTAIN THE HON. E. M. V. KENNELY: Your Excellency, I mean to oppose this as I wished to oppose the previous clause. This, Sir, excludes from the right of citizenship; in other words, the right of an individual to appeal to the court for protection—certain citizens of this town—and we are assured that those citizens are appealing for the purpose of delaying the application of this rating. That is for a matter of opinion. I know nothing about the merits of it, but I am not going to be a party to any measure which will enable an arbitrary decision to be taken, because we have had experience of such arbitrary decisions in the past in a matter which destroys one's freedom of speech or freedom of action as British citizens.

We are told, Sir, that the appeals to the courts were made with the idea of postponing payments which were due, but, Sir, who is to decide that? Surely if those people make appeals to the courts and those appeals fail they are made to pay the costs of those proceedings. I think it is really an immoral suggestion to ask that the rights of British citizens should be mitigated in this manner for the convenience of the local Municipality, and I strongly oppose clause 4.

THE HON. W. C. MITCHELL: I am sorry that I have to disagree with the last speaker. I should have thought that the experience of the Nairobi Municipality some four years ago was sufficient evidence to any Member of this Council of the need for this Bill as at present drafted. Over three years ago we had a certain section of the community in Nairobi refusing to pay rates while at the same time they had the rights and enjoyed the privileges of the Municipality. It looks as though we are going to have the same position repeating itself and I am strongly in favour of any Bill to prevent anything of the kind occurring here.

HIS EXCELLENCY: The question is that there be added after the new clause 3 of the Bill the following clause to be numbered 4:—

“4. For the purpose of removing doubts it is hereby declared that the Mombasa Valuation Roll signed and certified by the President of the Valuation Court appointed by the Municipal Board of Mombasa on the 12th day of March, 1929, is fixed and binding upon all parties concerned, notwithstanding anything contained in the principal Ordinance or in any Ordinance amending the same, and no action contesting the said Roll shall be entertained by any Court in the Colony: Provided always that the said Roll shall be subject to the provisions of sub-section (1) of section 3 of the Principal Ordinance relating to the revocation of rateable property within the Municipality of Mombasa.”

The question was put and carried.

THE HON. SIR ALI BIN SALIM: I have already said that in Mombasa the people did not worry much about the rate.

HIS EXCELLENCY: I have got to put the Title and Preamble as a matter of order. I will call upon you in a minute.

The question is that the Title and Preamble stand part of the Bill.

The question was put and carried.

HIS EXCELLENCY: The hon. Sir Ali bin Salim can make any comment he wishes on the motion to report the Bill to Council.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Bill be reported to Council as amended.

THE HON. SIR ALI BIN SALIM: The trouble, Your Excellency, is not on account of the rate itself. The trouble is that the land owner on account of plots on his land will be ordered to pay a rate, and that rate may be on Government land. He must make the rate and hand it over to the Municipality. That is the whole trouble which these people have found in Mombasa to make and borrow the money. That is really the whole thing; it is not the rate.

THE HON. THE ATTORNEY GENERAL: On what the hon. Member has just said I have only one comment to make. It seems to me to be a matter with a certain amount of justification perhaps, but it does not come under this Bill at all, Sir, but under the provisions of the 1923 Mombasa Town Planning Scheme and the subdivision conditions contained therein.

HIS EXCELLENCY: I understand that the Town Planning Scheme is under discussion between the Municipality of Mombasa and the Commissioner for Local Government, Lands and Settlement.

The question is that the Bill as amended be reported to Council. The question was put and carried.

Council resumed its sitting.

HIS EXCELLENCY: Order, order. I have to report that a Bill entitled a Bill to Amend the Local Government (Rating) Ordinance, 1923, has been considered clause by clause in Committee of the whole Council and has been reported to Council with certain amendments.

THIRD READING.

THE LOCAL GOVERNMENT (RATING) (AMENDMENT) (No. 2) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Local Government (Rating) (Amendment) (No. 2) Bill be read a third time and passed.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. H. T. MARTIN): Your Excellency, I beg to second.

The question was put and carried.

The Bill was read a third time and passed.

The Council adjourned till 9.30 a.m. on Friday, 18th July, 1930.

FRIDAY, 18th JULY, 1930.

The Council assembled at Government House, Mombasa, on Friday, 18th July, 1930, at 9.30 a.m., **HIS EXCELLENCY THE GOVERNOR (LIEUTENANT COLONEL SIR EDWARD WILLIAM MACLEAY GRIGG, K.C.M.G., K.C.V.O., D.S.O., M.C.)** presiding.

HIS EXCELLENCY opened the Council with prayer.

MINUTES.

The Minutes of the meeting of the 17th July, 1930, were confirmed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the Table:—

BY THE HON. THE COLONIAL SECRETARY (MR. H. M. M. MOORE):—

Report of Select Committee on First Supplementary Estimates, 1930.

BY THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR, K.C.):—

Report of Select Committee on—

- The Arbitration (Foreign Awards) Bill.
- The Bankruptcy Bill.
- The Trade Marks Bill.
- The Sale of Goods Bill.

BILLS.

SECOND READINGS.

THE NATIVE TRIBUNALS BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of a Bill to make further provision for the Administration of Justice and to constitute Native Tribunals in the Colony.

For a number of years, Sir, native courts—Councils of Elders—have been in existence in the Colony, so that the principle of establishing such courts is by no means a new one. These courts have performed a very considerable volume of work, but their activities have been hampered in more than one way. One grave objection to the present system is that such courts exercise jurisdiction in the territorial area for which

they are appointed only over members of the tribe and community which normally reside in that area. They have, however, no jurisdiction over persons who may come into that area, cause trouble and stir up strife, even though those persons may be, in fact, members of the same tribe which occupies that area.

A further very grave difficulty which besets those courts is that appeal from a decision of such court lies to a subordinate court, and it is provided that that subordinate court must deal with the matter as an original case *de novo*. From the subordinate court, of course, there lies an appeal to the Supreme Court.

The effects of that provision have been extremely damaging to the effective working of native courts, particularly in two directions: firstly, because advocates of a certain class—a certain calibre—have specialised in the work of native courts. They have inundated the Reserves with tours of a particularly objectionable kind, and inasmuch as courts have no written record, it is necessary when a case goes to a subordinate court, or, in turn, when it goes to the Supreme Court, for the case to be proved *de novo* in that court. That can only be done by actually calling the individual natives who constitute the Council of Elders. They then find themselves in the witness box in a town to which they are unaccustomed, in surroundings and in an environment which is quite new to them, and furthermore, very bewildering to them; and I am sorry to say that in the past cases have occurred where such natives, clothed as they are by virtue of their appointment with a certain degree of authority and influence within their Reserves, have been mercilessly and cruelly cross-examined for hours.

There is, of course, the other very grave objection, Sir, that the Supreme Court is a little prone at times to record the strict letter of the law, to give undue weight to technicalities and points of procedure, which are not only unknown to the natives in administering justice in their own courts, but completely and utterly foreign to their ideas of proper procedure and proper judicial work. I need not enlarge on the position which arises when that happens, as it very frequently does. No one is more bewildered than the native, who, after what he regards as a perfectly fair trial and a perfectly just sentence, is suddenly told to leave the prison and go. He does not understand it and he does not appreciate the position. His only feeling is one of complete bewilderment, and the only impression left on the minds of ordinary law-abiding natives is that we give them a court with one hand and that we take away all their authority with the other. The prestige of the court suffers. Ideas which are quite

unintelligible to the natives get into their minds, and there is a very real and very wide opportunity for agitators to exploit a position such as that and an equally golden opportunity for lawyers' touts to reap a harvest from it.

It is, I think, a truism, Sir, that it is not nearly so important to give the native justice as it is to make him understand that he is getting justice, and an undue reliance on technicalities, though it may result in what in the eyes of a British court would be regarded as the strict administration of justice, is not by any means a desirable state of affairs when we are dealing with a native community, who administer and who ought to administer the law and customs of that community with fairness and impartiality, and mete out to the natives subject to their jurisdiction a form of justice which they thoroughly appreciate and understand.

The Bill in the hands of hon. Members, Sir, introduces certain radical changes in the existing system. The Bill authorises the establishment of Native Tribunals at any point in the Colony and Protectorate—not only in the Reserves, but anywhere throughout the country. Those Tribunals will exercise exactly the same jurisdiction that is at present exercised by the existing native courts, with one exception—the important exception that such a Tribunal will now have jurisdiction over all natives resident or being within the area of their jurisdiction. It is manifestly an anomalous position that the Council of Elders of, let us say, Fort Hall, should be able to deal with misdemeanours of the Kikuyus resident within the Fort Hall Reserve, but should be powerless to deal with a far more difficult class of Kikuyu, who ought to be resident in the Fort Hall Reserve, who have detribalised themselves by adopting a domicile in or close to Nairobi, and who spend their days going into and out of the Fort Hall Reserve and causing trouble there.

The test now, Sir, for the Native Tribunal, as it is the test for every other court, in this or in any other part of the world, will be the place where the offence is committed or the place where the cause of action arose. It will be quite immaterial in future where an accused person or a defendant chooses to reside. If he commits an offence or incurs a debt or gives rise to any other cause of action within the territorial jurisdiction of a Native Tribunal, he becomes by that act amenable to the jurisdiction of that court and can be dealt with by it. That, Sir, is the only change in the direction of jurisdiction which this Bill imports. The powers of the courts will be as they at present are; they will be regulated executive; they will be given that degree of power which experience has shown they are capable of exercising wisely and justly. There is no stereotyped, no statutorily prescribed

limit, to their jurisdiction, nor is it necessary that all courts should have the same jurisdiction. A court constituted of persons who have shown by practical experience that they are capable of administering justice wisely can, and I think ought to have wider powers conferred upon it than another court where the conferment of these most limited powers has perhaps shown that the personnel of the court is such that it is incapable of exercising with even those petty powers that fairness and justice.

The types of offence which may be dealt with are just as they are at present. Hon. Members will find the question of jurisdiction dealt with in clauses 8 to 14 of the Bill, but apart from the point with which I have already dealt there is no change in the existing state of affairs introduced in these clauses.

I should perhaps take this opportunity of qualifying that statement very slightly by drawing attention to the proviso to clause 8 of the Bill. The courts established are Native Tribunals and they have jurisdiction over natives, a term which is defined in clause 2 of the Bill, and includes Somalis, Swahilis and Comoro Islanders. But the proviso to clause 8 imports a further consideration, a consideration dealing with the position of Arabs *vis-a-vis* these courts. It is in that clause provided, Sir, that an Arab may avail himself of those courts if he chooses deliberately so to do. If, for instance, we take the case, Sir, of an Arab trader working between Mombasa and, say, Kitui, selling goods on credit and having a number of native debtors, it will be possible for him, under that proviso, to recover the amounts due to him from natives in a Native Tribunal if he chooses so to do, but only if he deliberately elects so to do. It is a proviso that in such a case as that that may save a great deal of time and delay to such an Arab trader, but I do wish to emphasise the point, Sir, that there is no attempt here to bring any Arab within the scope of those Tribunals. He may avail himself of their assistance if he desires to do so; if he prefers not to do so, no Native Tribunal can exercise any jurisdiction whatsoever over any Arab.

The provisions of the clauses immediately following those to which I have referred do not, I think, Sir, call for anything more than a passing mention. The punishments which a Native Tribunal can impose are those which at present it can impose—a fine or imprisonment. Imprisonment may be carried out in any place which the Provincial Commissioner considers is a suitable place for imprisonment. That is a slightly new provision and will enable not only prisons and detention camps to be used but, in the case of very short terms of imprisonment, any suitable building in the immediate

vicinity of the court may be used instead of having to do as we at present have to and send a man for perhaps a considerable journey, to find that he arrives in prison about twenty-four hours before he is due to come out again, and when he comes out to have all the cost of his re-transport imposed on Government. It will be possible, under the provisions of clause 15, to establish local native prisons, which, of course, will be used only for those cases that I have spoken of of very short terms of imprisonment.

Contempt of court, perjury and such matters as the sitting of a member of a Tribunal without authority, the offering of rewards and bribes for purporting to exercise authority in such a Tribunal are not unnaturally made offences.

Now, Sir, we come to the most important part of the measure. From the courts at present existing an unsuccessful litigant has two remedies. There is the power of revision which at present is conferred upon District Officers and Provincial Commissioners; and there is also the right of appeal of which I have already made mention, the right of appeal to a subordinate court and from that court to the Supreme Court. The process of revision under the appeal remains exactly as it at present is. All cases will be automatically revised by the administrative officers, but when we come to the question of appeals, Sir, the Bill does import a very real change because it provides that appeals shall lie from the decision of a native court, not as at present to the subordinate court, but to the District Officers, and through them to the Provincial Commissioners or executive officers. The reasons for that change, Sir, for taking such matters out of the purview of the established court of the country, are those on which I have already touched. The natives are not ripe, they are not ready, they cannot understand the niceties of procedure, the technicalities which are so dear to the heart of the judge of the Supreme Court. I do not think the time is ever likely to be reached when they will have quite such a full appreciation of them as certain judges in the past have shown; and furthermore, Sir, it is most important in the interests of administration generally, in the interests of the authority and prestige of the chiefs, that advocates' touts should not find the Reserves quite such pleasant places, such remunerative places, as they at present do. And so, Sir, we suggest that the Supreme Court should not come into the picture at all—that there should be an appeal to the District Officer. If the appellant is dissatisfied with the decision of the District Officer, he may in turn appeal to the Provincial Commissioner, and, as the Bill is drafted, Sir, there is a further provision that against the decision of the Provincial Commissioner appeal shall lie to Your Excellency.

The detailed provisions of the Bill, Sir, have just been subjected to very careful examination, and no later than yesterday afternoon, Sir, at a round table conference, the suggestion was made that instead of an appeal from the Provincial Commissioner to Your Excellency, there should be, in serious cases, an appeal from the Provincial Commissioner to the Supreme Court, and that that appeal should be by way of case statement. The effect of that will be, Sir, that they will go to the Supreme Court with the notes of the Provincial Commissioner, his findings of fact on the facts adduced before him, and the conclusions in law which he has drawn from those facts; and it will then be for the Supreme Court, acting in guidance with the Provincial Commissioner, to pronounce whether or no the conclusions which he has drawn from those facts are the correct ones. The Supreme Court will not, under that procedure, be in a position to call witnesses. That is an important point, Sir, because it will be no longer possible for an advocate, acting in the supposed interests of a disgruntled lunatic, to pillory the whole of the personnel of the Council of Elders for the edification of the public of Nairobi. No witnesses will be called. The Supreme Court will be doing what it is its primary function to do—to advise and to guide on the legal inferences which should properly be drawn from a concrete statement of fact. More than that they will not do, but the discharge by the Supreme Court of those functions would, in my own personal opinion, inevitably prove of considerable help and assistance to Provincial Commissioners in the discharge of this work.

I have Your Excellency's authority for stating that when this Bill is referred to a Select Committee the Government will be prepared to accept a modification of the printed provisions relating to appeals along those lines.

THE HON. CONWAY HARVEY: Hear, hear.

THE HON. THE ATTORNEY GENERAL: Advocates, Sir, are specifically and statutorily debarred from participation in judicial work, not only of the Native Tribunal itself, but of appeals to the District Officer and to the Provincial Commissioner from such a Native Tribunal. I put it in that way, Sir, because it will be necessary, as a corollary to the amendment which I have just suggested, that we should specifically provide that advocates may, of course, be employed when the case goes from the Provincial Commissioner to the Supreme Court. It will not be competent, Sir, in view of the terms of the Order in Council, for us to make any other provision, nor I think is there any necessity to consider the making of any such provision. Advocates will be doing the work that they properly should do in such a case as that, but I do most

sincerely hope some hon. Members will agree that the employment of advocates either before a Native Tribunal itself or before a District Officer or Provincial Commissioner in hearing appeals from such Native Tribunals should not be permitted. The questions that arise, Sir, are in ninety-nine cases out of a hundred, questions of native law and custom, questions on which an advocate knows considerably less than the District Officer or Provincial Commissioner does. There is no need for their intervention; their services can be of no real and practical value to any of the litigants; and therefore, Sir, it is proposed bluntly and categorically to exclude them from all stages of proceedings which initiate in a Native Tribunal until those proceedings ultimately reach the Supreme Court.

Provision is made in the existing law for the establishment in any Province or District of native courts of appeal. In certain Provinces such courts already exist. I can only express the hope, Sir, that wherever it is possible to establish such courts they will be established. It is but right that matters affecting the marriage customs, and affecting the inheritance customs of any native community should, so far as they possibly can be, be dealt with by their own Chiefs and Elders. Where such a court is established, the first appeal will be to that court and from that court in turn to the District Officer and to the Provincial Commissioner. Where there is no such native court of appeal, then the first appeal will lie from the Council of Elders themselves to the District Officer.

Clause 39 introduces another novelty in the law of the Colony, Sir. The provision is that at the end of every month the District Commissioner shall forward to the Attorney General a list of all criminal cases dealt with in each native court. The question arose yesterday, Sir, as to the feasibility and the practicability of such a provision in view of the fact that there are already, under earlier clauses of the Bill, two remedies—revision and appeal to the prescribed appellate authority. I can only say, Sir, that the system already works, and works quite smoothly and easily, in the case of the subordinate court and the Supreme Court. I can only add, Sir, that if and when such lists do come to my office, I shall expect—I am confident that I can expect from District Commissioners—a note against those cases in which notice of appeal has been given. I need not add, Sir, that where notice of appeal has been given I have not the faintest intention of interfering under the provisions of this clause, but it does add a slight additional safeguard inasmuch as it minimises the risk of both a Native Tribunal and the District

Commissioner making, for instance, such an error as excessive jurisdiction, or imposing for an offence a sentence in excess of the maximum for which the law permits.

Rules may be made, Sir, chiefly for the fixing of the fees of Native Tribunals and the practice and procedure of those Tribunals. Native Tribunals will execute the process of other Native Tribunals and I propose in Select Committee to move a further clause in the Bill providing, as the present law provides, that subordinate courts also shall execute the process of Native Tribunals when it is sent to such a subordinate court by the magistrate of a subordinate court in the area in which the Native Tribunal functions. Quite clearly, Sir, it is not much good establishing a Native Tribunal, conferring on it considerable powers, if those powers can be rendered perfectly nugatory by the accused person, the convicted person or the unsuccessful party to a suit merely crossing an arbitrary territorial line. It is necessary to make judgments effective, and I would repeat, Sir, that it is the present law, under the provisions of the Courts Ordinance, that subordinate courts should exercise those powers. Those Native Tribunals which at present exist, Sir, may, under the provisions of clause 42 of the Bill, be declared to be Tribunals under the new legislation. When such a declaration is made the provisions of this Bill will apply to such a Tribunal, and it necessarily follows that that Tribunal will no longer be subject to the provisions of the Courts Ordinance.

Those, Sir, I think are the only points to which I need draw specific attention at this moment.

It is Your Excellency's intention to refer this Bill to a Select Committee, and I would suggest, Sir, that hon. Members might defer the raising of points of detail on the measure until that Committee is in a position to sit.

I beg, Sir, to move that the Bill be read a second time.

THE HON. THE CHIEF NATIVE COMMISSIONER (MR. G. V. MAKWILI): Your Excellency, I beg to second the motion.

My hon. friend, the Attorney General, has made such a complete exposition of the principles and scope of the Bill that there is nothing that I can add in the way of explanation. Merely from the political point of view I wish to say that the drafting of this Bill is the outcome of a good deal of experience in the observation of the working of these courts, and that it cures a great many deficiencies in the existing procedure which have been the subject of complaint from the natives themselves, from the actual native courts, and from the administrative officers.

* The Bill as it stands is very strongly welcomed, Sir, by the native Elders and responsible Elders of the tribes; by the administrative officers who have to supervise and be responsible for the working of those courts, and according to my experience and the many requests that have been made repeatedly to me at *barazas* attended by hundreds of natives, I am perfectly satisfied that the Bill does meet the actual needs of the native population.

HIS EXCELLENCY: The question is that the Bill be read a second time.

THE HON. CONWAY HARVEY: Your Excellency, even before I was privileged to hear my hon. and learned friend's very lucid and complete exposition of the intentions of this measure, I had made up my mind to support its principles. I have felt, Sir, for some considerable time that some simplification of procedure in these matters was highly desirable. In three districts in Kavirondo, Your Excellency, last year Native Tribunals dealt with no less than 28,205 cases. I do consider, Sir, that it really is of vital importance that the prestige and authority of efficient and loyal native chiefs should be maintained, and it is a source of considerable gratification, Your Excellency, to myself, and presumably to my colleagues, to know that Government has accepted their suggestion that there should be an ultimate appeal in the form of a stated case to the Supreme Court from the Senior Commissioner's court. That, Sir, furnishes what we believe to be a most essential safeguard, a safeguard which is so dear to the heart of the average Britisher.

I should like to state, Sir, that this really represents a measure for which well-informed public opinion, especially amongst the European community of Kenya, has agitated for a considerable number of years.

CAPTAIN THE HON. E. M. V. KENEALY: Your Excellency, I shall deal with the principles of this Bill and attempt to show that the principles of this Bill are contrary to the principles of British citizenship. The necessity for establishing this Bill or the necessity for devising some means of overcoming the administrative difficulty that exists in this country no doubt cannot be disputed, and one recognizes and admits that Government is attempting to meet that difficulty. But, Sir, this is not the correct method of meeting it. This is a method of subterfuge which enables the administration to avoid its fundamental responsibilities to the citizen and to attain those means and administrative means of attaining an effect at the expense of the freedom of the citizen. We are told, Sir, that there has been a general demand for a

measure of this kind. On what is that general demand based? We have had Native Councils established in the past and, Sir, I do not believe that even an administrative officer who is himself favourably impressed by the necessity for the establishment of these Native Councils would maintain that those Native Councils have functioned in a way which is entirely satisfactory, that there has been no case of intimidation and no case of bribery. I feel that every administrative officer who has seen the working of Native Councils has seen cases of intimidation and cases of bribery. Now, Sir, the institution of this measure will enable those cases of intimidation and bribery to receive the sanction of the Native Courts concerned. The establishment of Native Councils enables intimidation and bribery to be used in Native Reserves, and the establishment of these Native Tribunals will enable that bribery and intimidation which does exist to escape detection by the officer responsible.

There is, Sir, an automatic and accurate way of dealing with the lack of knowledge, or the lack of knowledge of technicalities in subordinate officers of the Crown or administrative officers, and that is to get a better class of man. That is the way which we were told the other day the Government of this country had recognized as being the correct way of dealing with it. I hope that Government will agree to abandon this Bill, which is contrary to ordinary British practice, and revert to the correct method of handling the Native Reserves, which is through honourable and qualified administrative officers. We can get them and we can pay for them; and we must not attempt to economize at the expense of justice, because those men are available. We can get them and we have got the finance to get them. This measure appears to result in an economy to the State but will it ever so result in an economy, and at the expense of what will that economy that does eventuate be attained? I maintain, Sir, that this Bill will not result in any economy. It will result in a great deal of ill feeling and a great deal of injustice. This Bill, Sir, will impose upon the finances of Kenya unlimited commitments one sees in other clauses. I do not know whether I shall be allowed to deal with a matter of this kind in detail at this stage; perhaps not, but I will state this definitely: that it does impose heavy commitments upon Kenya's annual revenue, and I maintain that it is improper that a Bill of this kind should so impose those commitments.

Now, Sir, it has been suggested that native law and custom shall be maintained and should be maintained. Well, Sir, I suggest that there is no such thing in Kenya as native law. There are certain tribal customs, and many of them

are of a disgusting and revolting character. Where is the authority which will decide which of those tribal laws and customs shall be maintained? Has that authority been defined in this Bill or elsewhere? Have we precedent to guide us in a matter of this kind? No, Sir, we have not.

Where there is a conflict between what our judiciary considers a serious offence and what native tribal custom considers a serious offence, what is to be the deciding factor in matters of that kind? The High Court is excluded from voicing its opinion.

I will mention one or two of these cases, Sir. Under certain native customs theft is punishable by death; under our code it is not. Under certain native customs theft is considered a very serious offence; under our code in many cases it is considered a trivial offence. That is one side of the question.

Then there are offences against the person. Under our ideals rape is an offence which we consider should be punishable by death; in the eyes of many native tribes it is a wholly trivial offence. Where you have so very great a conflict of opinion in regard to the relative significance and seriousness of offences, is it possible to co-ordinate them in this way or differentiate in this way? No, Sir. We must have one code applicable to the whole of this country. One sees the tendency which is implied by the acceptance of a policy embracing the institution of Native Tribunals. Our new Criminal Code, Sir, has definitely recognized the necessity for differentiating in the application of the law as between one race and another in certain particulars, and that is a tendency which will be contested when we attempt to formulate a code applicable to all the Colonies under British jurisdiction, and the result of that will be that sooner or later, where there is that racial discrimination in the primary code, that racial discrimination will disappear from the primary code and be incorporated only in the subordinate legislation of Native Tribunals. It will result in this: that where there has been an offence against a person—such an offence as rape—that that will be taken from the purview of the major legal code and brought into the purview of the minor legal code—in other words, it will be in the code of Native Tribunals. I do not say that that will result immediately, but it will result ultimately, and we shall bitterly regret the institution of a code antagonistic to British principles if we adopt it.

Now, Sir, I suggest that the only correct body to delegate this authority to in this manner is, not the Legislative Council of Kenya, but the Supreme Court itself. The Supreme Court has certain statutory powers and certain

statutory privileges, and yet it is suggested that the Legislative Council of Kenya should take away from the Supreme Court certain of its powers and delegate them to a subordinate authority.

We have not had an expression of opinion in this House—unhappily the judiciary is not represented in this House—we have the administration represented and we have legal opinion represented in this House, but, Sir, we lack the judicial opinion, and it is essential, since every citizen's freedom is based on judicial factors and not legal or administrative factors, that we should have a recognized and stated opinion from the judiciary. We have never had that. I maintain, Sir, that we have not information enough to justify us in taking an action of this kind, in introducing a code of this kind.

It has been stated that this principle of the establishment of Native Tribunals has been accepted. It has been applied, Sir, but it has not been generally accepted. Certain of the Elected Members have registered protests against the institution of this policy of indirect rule. It is a dangerous policy. We have seen the result of the application of this policy to the West Coast, and I trust we shall recognize it in its present form as we recognized it in its earlier form and reject it.

One of the reasons given for the necessity of establishing Native Tribunals is the difficulty that the State has in punishing sedition. I asked yesterday, when we had our round table conference, if there was a technical differentiation between treason and sedition—I was told that there was a very material one. Now, Sir, I maintain that in kind they are the same, treason and sedition; and why is it that the judiciary of this country and the laws of this country are not made wide enough to deal centrally with any seditious element in this country? Why is it necessary to apply for the protection of our British ideals to Native Tribunals? We have seen that in actual administrative practice it was done and I regretted seeing it, because it manifested a high degree of weakness and inefficiency on the part of the administration to appeal to a native court to uphold ideals which were established in this country by Orders in Council. It was a weak thing to do, and I maintain, Sir, that it was a wrong thing to do.

We find that this Bill makes provision for the establishment, not only of Native Tribunals but also for Appellate Native Tribunals. Is it rational to suppose that the natives of Africa are competent to deal, more competent to deal, with an appeal than the average honourable administrative officer?

We are attempting, Sir, to create something which does not exist, and we are attempting to create it at vast expense financially and at a vast expense to justice and equity in this Colony. We are going to produce a highly dangerous situation. We are attempting to strengthen the hands of the chiefs of the tribal organization and we are attempting to strengthen the hands of the organization at the expense and, let me say, against the wish, of the majority of the persons composing the tribe.

Now, Sir, it is suggested that these Tribunals will deal entirely with native matters, but we know perfectly well that the definition of the word "native" is an elastic one and is one which has a different meaning in different Ordinances. And its definition may in this Ordinance be varied. We find that this will enable Tribunals to be established outside the Native Reserves, and I suggest now that that is an exceedingly dangerous situation.

We have heard mention to-day of a detribalised native. Has anyone in this House, Sir, the ability to define what a detribalised native is? I think not. That being so, Sir, is it suggested that this Bill will re-embrace in its clutches natives who get out of tribal control from their own desire? Tribal control is not beyond question desirable. Tribal control has led to abuses of person and property. We know that because of these abuses, both of person and property, persons have left the tribe and gone outside, where they could be immune from the trials and tribulations to which they were subjected in the Native Reserve. When, Sir, this Bill is passed, if it is passed, then these natives will again be brought under the control of those tribal organizations from which they fled. They are being scooped up again and they are being scooped up against their wills.

Then, Sir, there is another factor, and that is with regard to natives who are outside the tribal areas; if a new tribal Tribunal is established outside those areas, within the White Highlands, to what extent will the jurisdiction of the Native Tribunal concerned apply? Are we told? Do we know? One sees, Sir, the rules which may be amplified and the conditions which are generally applicable to these Tribunals are very elastic in their nature. I am afraid, Sir, that this House does not recognize the implications of those rules and the principles involved in this Bill. The powers of the Kiama, which was the first native body established having any judicary power in this country, are not the same powers as these; they are vastly different. These powers are powers which will enable the abuse of power.

Now, Sir, if an individual member of a Native Tribunal is considered by the Provincial Commissioner—I will read the wording—"who shall appear to have abused his power he may be suspended or dismissed." But, Sir, where is the principle of British justice in that? A man appears to have abused his power and arbitrary action is taken against him without trial. The Provincial Commissioner can, without trial, suspend or dismiss an individual and an individual that previously he had recognized as a responsible, an honourable individual. I maintain, Sir, that that is contrary to the principles of British justice, and I appeal to this House to turn it down.

In clause 4, the proviso, the Governor may prescribe the constitution of any Native Tribunal. That may be variable in different areas, and it may be variable, and probably will be variable, at the whim of succeeding Governors.

My hon. friend, the Attorney General, has recognized the difficulty that exists in the definition of natives in clause 8. In the proviso to that it is not stated, although one presumes it, that the permission of an Arab in a case of that kind must be obtained before action can be taken.

Now, Sir, if any native tribe in Kenya has any judicial capacity, surely those native tribes which have the greatest judicial capacity should receive most encouragement. Are we going to attempt to evolve a judiciary in every tribe in this country? Is it not an absurdity? I appeal to you, Sir, to recognize that it is an absurdity. There are certain native tribes which are more evolved than others and they are better capable of dealing with judicial matters than other tribes. I think it might be suggested that alien tribes would probably be better in the administration of judicial functions than native tribes, but it cannot be gainsaid that there are certain native tribes in this country who are utterly unfitted and will be for a long period of time utterly unfitted to exercise any judicial capacity.

Then, Sir, the limitation of the powers of these Native Tribunals: one finds that corporal punishment is excluded. Now corporal punishment is a wholesome and a cheap and an efficient method of dealing with minor offences. It is an exceedingly wholesome one and it is one which we, in our sentimental folly, are abandoning. I hope we shall revert to it.

His EXCELLENCY: Order, order. I hope the hon. and gallant Member will deal with the principles of the Bill and not with specific points which can be raised in Committee. The question of whether or not the courts can exercise the right of corporal punishment is not one of the principles of the Bill.

CAPT. THE HON. E. M. V. KENYALY: Could one deal with the jurisdiction generally, Sir?

HIS EXCELLENCY: The hon. and gallant Member is entitled to deal with the principles of the Bill. He is capable of understanding what those are; but specific points on specific clauses, unless they raise a question of principle, ought to be dealt with in Committee.

CAPT. THE HON. E. M. V. KENYALY: One finds, Sir, that this Bill imposes a new commitment on the Colony and not a new commitment on the Native Reserves alone. It imposes a commitment for the building of prisons. It seems a funny thing to introduce into a Bill dealing with principles of this kind—a commitment in regard to financial provision for prisons, and a commitment enabling the prisoners convicted by a Native Tribunal to be incarcerated in prisons already existing outside their jurisdiction. It seems a funny kind of principle to embody in a Bill of this kind.

We have provided in this Bill for contempt of the Native Tribunal but, Sir, I suggest that we have provided also for its insult, inasmuch as without any appeal and without any trial a member of a Native Tribunal can be dismissed or suspended. I think honestly that that is an iniquitous provision and I think it is laughable to suggest that providing for contempt in another clause dissociates us from our responsibility towards these Tribunals if they are established.

One sees in clause 20 the power to summon witnesses. That will cause a very great dislocation of the business life of this country and will promote a very high degree of laziness. These commissions and tribunals have a very deliberate way of dealing with matters and they are not expeditious because they have no idea of the value of time; and one of the reasons that Government claims as being a reason for establishing these Tribunals is that the native will not have very large law costs imposed upon him.

Well, Sir, it has been suggested that native advocates, or advocates of any kind, should be excluded from taking part in native Tribunal cases. That may be a desirable principle or it may not, but it certainly is in this country a novel one. We are told that there is a very general existence of tooting by lawyers in the Native Reserves. Well, I suggest that that is a matter which could be dealt with by the Administration, and if the Administration is incapable of dealing with the simple administrative matter of that kind, how have they the audacity to ask for a greater degree of control over the

judiciary of this country? Their position, Sir, is an anomalous one. I maintain that they must demonstrate their capacity in a simple matter such as dealing with lawyers' touts in the Reserves for the protection of the native community.

There are going to be large monetary commitments upon us, Sir, because there will be recourse made in writing—either appeals will go through a lot of minor Native Tribunals or they will have to be reduced to writing and put up in a proper legal manner for the decision of a really competent court. One sees that there will be appeals innumerable, and instead of Government obtaining its result by a simple administration of justice it will merely mean postponement and complication, and expense and injustice. I am very happy to see that Government has recognized that these matters in appeal should be referable to the judiciary and not to the Governor of the country, but, Sir—I forget the technical expression which describes the manner of their presentation—but anyhow, it does not involve the hearing of the case by a court. It merely involves the analysis of the evidence by a court, and that, being a denial of the ordinary privileges of a British citizen, is a thing which should be contested here.

There is another monetary commitment because there is a new procedure to be conformed to—a complete list in clause 39 of all criminal proceedings decided shall be sent to the Attorney General. That is no doubt a very proper thing to do; and in clause 40 the Attorney General may, without hearing an argument, exercise certain powers, and he may exercise those powers without any appeal being made to him to do so. Whether the man considers he has been fairly punished or not, the Attorney General still may exercise his powers and vary that punishment. If both parties are satisfied with the judgment, it seems extraordinary that the Attorney General should still have powers to vary it and make one or other dissatisfied.

Well, Sir, I hope I have said enough to convince Government that this is an undesirable Bill. I do not question Government's intentions or Government's honesty of purpose in this matter, but I recognize the implications in this Bill and I contest its application, and I contest the principles that are involved. Unhappily, I have not been able to deal with the jurisdiction of the courts in the analysis. I shall not attempt to pursue that further, but I will leave it to hon. Members of Council to recognize that there is something to be said against a limitation of jurisdiction although I have not been able to deal with it in detail.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I am afraid I have not got the blood of the lawyer in me like my hon. friend on my right (the hon. Member for West Kenya) who has delved into the intricacies of legal practice and principle.

I only wish to refer to two points, Sir. One is that I trust in Select Committee Government will alter the provision of including Somalis under the definition of "native." It seems to me that it is wrong in principle to bring a race such as the Somalis under these Native Tribunals, and it is a very bad method of doing it by juggling with the definition of the word "native."

The other point, Sir, is that this Bill enables these courts to be set up outside the Native Reserves. I sincerely trust that will never be done in any district without first getting the agreement of the district council in the area concerned.

I am delighted that the hon. mover of this Bill has given notice that he is going to move an amendment with regard to final appeal in Select Committee.

THE REV. CANON THE HON. H. LEAKEY: Your Excellency, I listened with very great interest to the lucid explanation of this Bill by the hon. mover of the motion, and I feel that he has made out a very strong case indeed from the point of view that the ideal would be to do something like what is suggested in this Bill, and I feel that as the native gets more and more educated so will he be able better to carry out the very important functions which will fall upon him in taking part in these Tribunals.

I am also very glad to hear that probably in Select Committee, if this Bill goes through, there will be a change providing for appeal to the Supreme Court after the District Commissioner or Provincial Commissioner has dealt with the matter if one of the parties so wishes. At the same time, Your Excellency, I am bound to agree very largely with what my friend, the hon. and gallant Member for West Kenya, has said in regard to the whole idea in the native mind of what is law and what is justice. The belief in this country amongst the natives has been that unquestionably, when giving a verdict, the judge obviously gives the verdict in favour of the one who bribes him most. I am sorry to say so, but that is what I have found. I do not say this is always the case, but as it is often the case I feel that the time has not yet come for the provisions in this Bill to be carried out. I feel they should wait till some time in the future when these uneducated tribes have had more and more contact with education and seen something of the justice administered in

European courts. The time is not yet ripe and therefore I regret to say I shall not be able to vote for the Bill which makes the change at the present time.

THE HON. A. H. MALIK: This, Your Excellency, is the second attempt within the short space of twenty-four hours to enact the same principle in regard to the administration of justice; the first one was yesterday when it was legalised that no action shall lie in any of the courts because of the Rating Bill. I consider, Your Excellency, that it would be a mistake to emphasize this view as undoubtedly it will be impressed on the minds of Government.

I have great pleasure in wholeheartedly supporting the hon. and gallant Member for West Kenya and I sincerely trust that hon. Members here, after hearing that able exposition of the principles of this Bill will vote against it. I must say that the attempt, both yesterday and to-day, is simply detestable, inhuman and terribly unjust, and to satisfy my conscience, Your Excellency, I will vote against it.

THE HON. T. J. O'SHEA: Your Excellency, it is not often that I find such difficulty in making-up my mind about any important Bill brought before this House as I have found in making up my mind about this one. I should most certainly have voted against it were it not for the changes that Government has agreed to make in it, of which some idea has been given by the hon. mover. Nevertheless, Sir, I must confess that I am very doubtful indeed as to whether this Bill does embody sound principles of administration, and I must confess that my doubts on the subject have been strengthened by hearing from the Unofficial Member representing particularly native interests that he is opposed to the introduction of this Bill.

The thing that weighs a lot with me in the matter, Sir, is that in my limited experience of the native I have found that he is only capable to a very limited extent indeed of forming abstract ideas or of having his conduct guided by abstract ideas. He has a very concrete mind, and I think I am not unfairly misinterpreting the stage of mental development he has reached when I say that he is, taking the native as a whole, incapable of conceiving that idea of abstract justice that is the bedrock of our judicial system.

CAPT. THE HON. E. M. V. KENFALY: Hear, hear.

THE HON. T. J. O'SHEA: And that ability to conceive and be influenced by abstract ideas is of such very slow growth in human evolution that I cannot imagine that the native

is going to be more capable in the course of a couple of generations of carrying out this all-important work of administering justice than he is to-day.

However, very strong reasons have been adduced by the senior officers of Government responsible more particularly for administering the activities of the Native Reserves, and I must confess that it would be unfair of me, having no very definite views on the subject, not to be influenced by their views and not to be influenced by the sincerity of the Government in this matter and by its strong conscientious desire to bring into being a system of courts in the Native Reserves that will best carry out the administration of justice there. So, Sir, I am rather passive in the passing of this Act, this Bill, but I would very strongly plead that the very greatest care be exercised over these courts, and above all I would plead that there should be no desire to hasten the process of enlarging their scope.

The Bill provides Government, without reference to this House, with the power to extend the scope of these courts, and I do most sincerely hope that the present and future Governors of this Colony will be most careful indeed before they take any steps in that direction.

Again, Sir, in one other direction I would plead caution. Of late months, not only in this direction but in others, we have been given to understand that it should be the policy of Government, so far as ever possible, to base our plans for the future development of the native on existing native institutions and existing native laws and existing native customs. I wholeheartedly share the view of the hon. Member for West Kenya in his attitude toward native laws. Those native laws are very nebulous. No attempt whatever appears to have been made so far to codify them, and they are entirely local in their conception and in their application. I believe that he is quite right in pointing out that the setting up of these native courts may possibly result in localised judiciaries, and it would become increasingly difficult in the course of time, as the native does progress in the growth of civilisation, to revert to what should be the ideal to be aimed at, namely, one judiciary for the whole country and all the peoples within it.

In conclusion, Sir, I did not intend to intervene in this debate but I feel that I must make it clear that it is with the greatest hesitation indeed that I remain passive to the passing of this Bill; that I am so passive because I feel that I have not the knowledge of the subject that would enable me to justify a strong stand. I am prepared for the time being to accept the assurances of Government that this Bill has

been very carefully thought out and that in view of all the circumstances it is necessary in the interests of the native peoples; but I would urge once more that the greatest possible caution should be exercised in extending its scope in the native districts, and I do sincerely hope that no attempt will be made at the present time to extend the scope outside the Native Reserves or to include anything in its purview other than the strictly native peoples.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I have endeavoured to listen as carefully as I could to the comments which have been made on the other side of the House with reference to this Bill, but there are one or two very minor matters, almost matters of detail, on which I would like just to say a word.

The Noble Lord, the hon. Member for Ukamba, asked for an assurance on two matters, Sir. With those I think I can deal quite shortly. The definition of "native" includes both Somalis and Swahilis; that inclusion is due to the belief, at the time when the definition was framed, that in Provinces such as the Northern Frontier Province and Turkana it was only right that Somalis should use the native judicial institutions; and similarly in the Coastal Province that the Swahilis should also be subject to those courts. The definition will of course be very carefully considered in Select Committee, Sir, and if it is the general desire that the definition should be tightened up and so strictly to limit the powers of the courts over Somalis and Swahilis to certain Provinces or districts, then, Sir, I feel that I can give an assurance that Government will very carefully consider any such representations. Similarly, Sir, on the point of the establishment of courts outside Reserves without the consent of district councils, I can assure the hon. Member that nothing of the sort was ever contemplated and nothing of the sort would be done. Before such a court is appointed the district councils and other local authorities concerned will be consulted and their views ascertained.

Whether it is my temporary deafness, Sir, or something more serious in the form of stupidity, I hesitate to say, but I found myself, after listening to the hon. and gallant Member for West Kenya, irresistibly reminded of the old tag—

"Do I sleep? Do I dream? Do I wonder and doubt?"

Are things what they seem or are visions about?"

I was utterly unable to follow any of the arguments which he adduced, Sir. It seems that he and I, both quite well-meaningly, but one of us quite misguidedly, have applied our minds to the provisions of this Bill, and from reading the

provisions of this Bill have formed diametrically opposite conclusions. I do not propose to deal with the points now because it is Your Excellency's intention to appoint the hon. and gallant Member as one of the Members of the Select Committee. I will confine myself to saying one word more. There was one part of his speech which I did understand and thoroughly appreciated. The hon. and gallant Member assured this House that he regarded corporal punishment as a wholesome and fitting punishment for certain offenders. That I was extremely glad to hear, Sir.

HIS EXCELLENCY: The question is that the Native Tribunals Bill be read a second time.

The question was put and carried by 27 votes to 3.

Ayes: Messrs. Bale, Bennett, Brussey-Edwards, Campbell, Cobb, Dobbs, Lieut.-Col. Durham, Mr. Fitzgerald, Dr. Gilks, Messrs. Goodship, Conway Harvey, Holm, Horne, Howell, Lieut.-Col. Kirkwood, Messrs. Macgregor, Martin, Maxwell, Mitchell, Montgomery, Moore, Major Robertson-Eustace, Lieut.-Col. Lord Francis Scott, Mr. Scott, Sir Ali bin Salim, Col. Tucker, Col. Wilkinson.

Noes: Capt. Kenealy, Canon Leakey, Mr. Malik.

Declined to Vote: Mr. O'Shea.

HIS EXCELLENCY: I understand that hon. Members are generally agreed as to the following Select Committee to consider the Bill—

- The Hon. the Attorney General (*Chairman*).
- The Hon. the Chief Native Commissioner.
- The Hon. the Provincial Commissioner, Nyanza.
- The Hon. the Provincial Commissioner, Coast.
- The Hon. the Provincial Commissioner, Ukamba.
- The Hon. the Provincial Commissioner, Kikuyu.
- The Hon. the Member for Rift Valley.
- The Hon. the Member for Ukamba.
- The Hon. the Member for West Kenya.
- The Rev. Canon the Hon. H. Leakey.

THE WATTLE BARK INDUSTRY (REPRAL) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Bill to Repeal the Wattle Bark Industry Ordinance be read a second time.

Hon. Members have doubtless seen in the Gazette, published on the first of this month, certain Rules made under the Crop Production and Livestock Ordinance of 1928 dealing with the subject of wattle bark. The Wattle Bark Industry Ordinance goes back a large number of years. It has never in fact been effectively applied. There is a complete lack of machinery under it to enable it to be applied, and in view of the passing of the Crop Production and Livestock Ordinance two years ago and the fact that under that Ordinance Rules relating to wattle bark and to any other form of agricultural industry can be made, and that these Rules have in fact been made, applicable to the whole of the operative provisions of that Ordinance, it is no longer necessary to perpetuate that measure on the Statute Book. It is therefore proposed to repeal it. I beg to move the second reading.

THE HON. THE DIRECTOR OF AGRICULTURE (MR. ALEX HOLM): Your Excellency, I beg to second the motion.

The question was put and carried.

THE MINING BILL.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. H. T. MARTIN): Your Excellency, the introduction of a new Mining Bill five years after the introduction of a somewhat elaborate Bill, taking a very long time to compose, might suggest that there has been so much mining carried on in our territory that a large mass of detailed knowledge and experience has been accumulated with the result that changes in the law became imperative. I am afraid, Sir, that that inference is not correct. Mining at the present moment is largely confined to sporadic exploration and prospecting, with results which are not yet, I am afraid, very concrete or very apparent. On the other hand, Sir, in our neighbouring territories, there have been considerable active mining operations carried on and it has become apparent to them that on such boundaries, artificial or otherwise, which separate us and which are possibly geographically in the same prospecting area, it is very undesirable to have different laws. It was therefore suggested that a conference of mining authorities in each territory should be held with a view to seeing how far we could have a common law. That conference, Sir, was held some time ago and this Bill is the result of that conference.

I will, very shortly, Sir, traverse the principal points in this Ordinance: that is to say, those points which are not in agreement with our existing Ordinance. But, Sir, it should be remembered, I think, that although there may be possibly matters for objection in some of these changes, these changes

are recommended by the authorities of these territories in which real mining is at present being carried out. We should, therefore, I suggest, be disposed to give the advice of those authorities due weight.

The principal amendments, Sir, are as follows—I will traverse them as quickly as I can. The old definition of minerals was a difficult one to apply, and for practical purposes it is now suggested that it would be better that minerals should include all minerals, with the exception in favour, from the scientific point of view of the term, of building materials.

The second point is a more important one, Sir, and deals with the old vexed question of sole prospecting licences. The old system was that anybody could take out a prospecting licence for a comparatively small fee and roam about the face of Kenya and prospect where he liked. On the other hand, he had no exclusive rights granted to him thereby. In the present Ordinance we have gone what I consider is a step forward in that direction in that, if a good case can be shown, exclusive rights can be given, but a case of that kind, Sir, has to be connected with public grounds. It is the advice and practice of our neighbours, with which personally I agree, that the prospecting stage of mining should be made a much more definite and prominent stage. And that brings me on to the further point, that not only should it form in some sense a definite title and confer definite rights over a definite portion of land, but that it should also include within those rights the right of working and exporting minerals.

There is a further point, Sir, in connexion with mining titles. It is suggested, and I think with reason, that mining operations, that operations which are covered under the mining laws, are not necessarily the sole operations which are required in connexion with mining operations. It is therefore proposed that for such purposes as may be found reasonable—residential purposes and so on—a special lease should be available not specifically conferring mining rights within the area covered but for other purposes which should, however, have some essential connexion with mining operations next door.

There are two remaining points with which I will deal also at once, frankly matters on which criticism must be expected, I think, from anybody interested in the subject, not so much because of their essential connexion with mining but on more general grounds.

The first is that the arbitration provisions of the existing law are deleted and the Commissioner of Mines in his court is given sole jurisdiction in respect of mining disputes.

The other main principle, Sir, is the throwing on to regulations, regulations published by the Governor, of a large mass of detailed work which in the present Bill is specifically provided for. The two obvious matters which are not left for regulations and are specifically provided for in the existing law are the fixing of royalties and the fixing of the terms of leases and other mine rights, including the fees payable therefor.

I would ask, Sir, that the Council will look upon this Bill, as I have said before, as an attempt mainly to obtain conformity with existing law in our neighbouring territories. I am not going to suggest that this Bill should immediately go into committee during the present session. The trouble in this country is that there is no official mining association, no organization which watches the rights of persons interested in mining, and I feel that what might happen would be what actually happened six years ago when Government introduced the Mining Bill. They published it in the Gazette; they gave full notice, and not a word was heard from anybody in the country. When the Bill went into Select Committee—when the second reading was heard, the Bill was explained and there was a certain amount of discussion. That discussion, of course was published in the newspapers and in a few weeks' time those newspapers penetrated the back blocks where the mining was going on, and then the real discussion commenced. That, I feel, is what may happen at present, and it is suggested, with Your Excellency's permission, that a Select Committee should be appointed to deal with the Bill and, as it did before, to hear any interested parties with their opinions at leisure. There is, Sir, in fact no local urgency in this Bill.

I beg, Sir, formally to move that it be read a second time.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to second.

HIS EXCELLENCY: The question is that the Bill be read a second time.

CAPT. THE HON. E. M. V. KENYALY: Your Excellency, I welcome this Bill although I dispute the accuracy of some of the principles embodied in it, but it appears to be a very clear indication that Government does now at last honestly mean to further prospecting and mineral exploration generally. One finds that in the past Government has put a lot of obstacles in the way of mineral exploration and prospecting.

Some of the principles embodied in this Bill, Sir, which require consideration, are those which enable Government to exclude from the application of the terms of this Bill certain areas of land. After all, one must recognize that this country is now civilly administered throughout; it is not militarily administered in some areas as it used to be; and because it is civilly administered the law of the country should apply to the whole of the country. I am not suggesting that it should necessarily apply to the Coast belt, which is under certain Treaty limitations, but the whole of the Northern Frontier Province anyhow should come under the application of an Ordinance such as this. That is a principle because it deals with the application of a Bill generally; we do not want piecemeal legislation or the application of legislation piecemeal to a country. Let us deal with the thing in an honest and general fashion and not make variations for each little local condition.

Then, Sir, there is another limitation, not a territorial one, but this limitation is imposed on prospecting for oil. The disability of imposing such a limitation, I think, deserves scrutiny, and I do not think it is a limitation that we can readily agree to on this side of the House.

In regard to sole prospecting licences, there is also a danger implied there. I am most concerned, Sir, in seeing the investigation of the mineral resources of Kenya proceeded with apace, and if we agree to the policy of sole prospecting licences we may inadvertently agree to a policy of withholding from investigation certain areas even for a time. There is always a certain overlap and lag in time, and I think that is a principle which requires further consideration. I do not think that one can endorse it as it is expressed in this Bill.

Then in clause 55, Sir, one sees the control of water for mining purposes vested in a body or person which may be antagonistic in its principles to the water legislation of this country which I believe has been enacted. In that regard I do hope that Government will appoint this Committee to formulate regulations for the control of water at an early date. The country is suffering very badly from lack of water development, and I hope Government will deal with that very soon. I put in a question about it.

In regard to the propriety or the disability of empowering the Commissioner of Mines with such large powers, I think that requires further investigation, though as a general principle it is desirable that the Commissioner of Mines should have these large powers, but whether he should have powers embracing the allocation of costs in the case of two or more

disputants I am not sure. Perhaps that should not come under his control, especially if he happens to be one of the two.

Then in regard to clause 30 where there is a limit of one alluvial claim per miner except where climatic conditions prevent his working that one claim: that too, I think, requires further investigation because, after all, one does not want to put any obstacles in the way of mineral development.

What is going to save Kenya ultimately—and, I think, at an early date—is her mineral resources. I think in regard to minerals in this country in the past Government has obstructed their discovery, and I hope this Bill is intended to prosecute investigations. I support the Bill.

HIS EXCELLENCY: The question is that the Bill be read a second time.

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I move that Council resolve itself into a Committee of the whole Council for the consideration of the Wattle Bark Industry (Repeal) Bill and the Native Authority (Amendment) Bill.

THE HON. THE CHIEF NATIVE COMMISSIONER: Your I beg to second.

HIS EXCELLENCY: The question is that Council resolve itself into a Committee of the whole Council in order to consider the Wattle Bark Industry (Repeal) Bill and the Native Authority (Amendment) Bill clause by clause.

The question was put and carried.

Council went into Committee.

In Committee.

THE WATTLE BARK INDUSTRY (REPEAL) BILL.
The Bill was considered clause by clause.

THE NATIVE AUTHORITY (AMENDMENT) BILL.
The Bill was considered clause by clause.

Clause 2. Power to establish local communal councils.

THE HON. THE CHIEF NATIVE COMMISSIONER: Your Excellency, at this stage, in view of the objections that were raised on second reading by my hon. friend, the *Livral* for the Coast, I should like Your Excellency's permission to make some further explanation of this clause.

When the Native Reserves were being delimited, it was proposed to include in the Digo Native Reserve certain areas of land at native lands; that there were other rights over that land claimed by certain Wasia Arabs. They have, in fact (in 1920) registered

their claims with the Recorder of Titles. Thirty-two claims were registered. At a subsequent date they made an arrangement among themselves—that is to say the Wasia Arabs with the native tribes in the area, by which they expressed a desire to have a communal area, and they said that if Government would agree to make this a communal area and not a Native Reserve they would withdraw—that is, the Arabs would withdraw the claims they had lodged with the Recorder of Titles. This proposal was reported to Government and was approved by Government, and in 1929 the necessary legislation was passed in this House to enable a Communal Reserve to be declared. That Communal Reserve was definitely declared by Government Notice No. 771 of 1929, and on the assurance of Government that this Communal Reserve was going to be declared, all the claimants who had filed their claims with the Recorder of Titles attended before the Deputy Recorder and withdrew those claims. We are therefore in the position that there is a definite Communal Reserve. There has never been any objection by anybody, and in conversation with my hon. friend I have gathered from him that none of these claimants have made any objection to him.

The Communal Reserve is there now. The people, Arabs and natives, who are interested in this Communal Reserve have definitely made a request to their administrative officer that a communal council be established in order to provide a body under which the Communal Reserve can be administered; and it is for that purpose, and at the definite request of the Arabs and natives concerned, that this Bill is now before this House.

THE HON. H. R. MONTGOMERY (SENIOR COMMISSIONER, COAST): Your Excellency, in line 11 it reads "assistant district commissioner." In view of recent legislation it should be "district officer."

HIS EXCELLENCY: What is the amendment?

THE HON. H. R. MONTGOMERY: "District officer," Sir, instead of "assistant district commissioner," line 6 of the clause.

THE HON. THE ATTORNEY GENERAL: In the first place the word "district" is correct. The word "assistant" should be deleted and the word "officer" substituted for the word "commissioner."

HIS EXCELLENCY: The question is that in line 6 of the clause the word "assistant" be deleted; and that the word "commissioner" be deleted and the word "officer" substituted therefor.

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: I beg to move that the Bill to repeal the Wattle Bark Industry Ordinance be reported to Council without amendment, and that the Bill to Amend the Native Authority Ordinance be reported to Council with amendment.

The question was put and carried.

Council resumed its sitting.

HIS EXCELLENCY: Order, order. I have to report that a Bill entitled the Wattle Bark Industry (Repeal) Bill has been considered clause by clause in Committee of the whole Council and has been reported to Council without amendment; and that a Bill entitled the Native Authority (Amendment) Bill has been considered clause by clause in Committee of the whole Council and reported to Council with amendment.

THIRD READINGS.

THE WATTLE BARK INDUSTRY (REPEAL) BILL.

THE HON. THE ATTORNEY GENERAL: I beg to move that the Bill to Repeal the Wattle Bark Industry Ordinance be read a third time and passed.

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, I beg to second the motion.

The question was put and carried.

The Bill was read a third time and passed.

THE NATIVE AUTHORITY (AMENDMENT) BILL.

THE HON. THE CHIEF NATIVE COMMISSIONER: Your Excellency, I beg to move that the Bill to Amend the Native Authority Ordinance be read a third time and passed.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to second the motion.

The question was put and carried.

The Bill was read a third time and passed.

SUSPENSION OF STANDING ORDERS.

HIS EXCELLENCY: I think I have already informed hon. Members on the other side of the House privately that I would accept a motion, in order to meet their convenience, for the suspension of Standing Rules and Orders, in order to take a motion standing in the name of the hon. Member for the Lake on the Supplementary Order of the Day. As the hour is getting late it might be desirable to adopt that course, if that will meet the convenience of hon. Members.

THE HON. CONWAY HARVEY: That will be very convenient, I think, Sir.

HIS EXCELLENCY: Will the hon. Member move the suspension of Standing Orders?

THE HON. CONWAY HARVEY: Your Excellency we are very grateful to Your Excellency for permission to adopt this procedure and I beg to move the suspension of Standing Orders in order to take a motion standing in my name on the Supplementary Order Paper.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I beg to second.

The question was put and carried.

MOTION.

SUBSIDY ON CEREALS.

THE HON. CONWAY HARVEY: Your Excellency, Standing Rules and Orders having been suspended, I beg to move the motion standing in my name on the Supplementary Order of the Day:—

"That to meet the abnormal conditions occasioned by the fall in the world's market values of cereals and without prejudice to the general question of subsidies, this House is of opinion that an immediate enquiry should be held by the Board of Agriculture, with such other members as Government may appoint, into the advisability of granting a subsidy of Sh. 1 per bag of maize (200 lb.), wheat (200 lb) and barley (150 lb) in respect of every bag exported from the Port of Mombasa during 1930."

As everybody knows, Your Excellency, in common with the whole agricultural world Kenya is in the throes of acute agricultural depression, largely due to universal bad markets. In the case of Kenya, Your Excellency, the depression has been greatly accentuated by the three bad seasons that we have just passed through, by last year's locust invasion and the unprecedented rains of this year. As a very clear illustration, Your Excellency, of how very seriously this situation has affected growers of cereals, may I mention the fact that whereas the average price of maize during the year 1929 was Sh. 12 per bag, at the present moment the figure stands so low as Sh. 5/45 per bag at grower's station. That, Sir, is a figure far below the cost of production and it means an enormous loss to the 850 members of the Kenya Farmers' Association and many other growers of maize who are not members of that helpful body.

Another very definite defect, Sir, in the agricultural life of Kenya is the almost complete absence of credit facilities. That, Sir, was dealt with at some length by the Agricultural Commission which reported recently. Kenya has so far struggled along, Sir, largely with the goodwill of the banks in financial matters, assisted to some extent by private capital which has been available from time to time in the shape of mortgages and so on. Now, Sir, other countries do not labour under this particular form of handicap, as all other countries have some definite form of agricultural credit, either in the form a land bank or through co-operative credit facilities and many other methods suited to the particular circumstances of the individual country. Here, Sir, I do think it a very great pity that there should have been so much shilly-shallying in connexion with the Kenya land bank, and I do think, Sir, that had that measure been law to-day we should possibly have been saved a great deal of our anxiety in connexion with tiding over the present unfortunate situation.

Now Sir, if I may, very briefly—following the example of my hon. and learned friend the Attorney General—anticipate one or two objections to my proposal, I will do so. One objection that has been raised, Sir, in the course of our discussions is that the position may become worse. Well, Sir, that leave me very cold. It really means that you will not give your patient medicine because he may die, and if we accept that as a point of view we shall never do anything. Advances of money from a land bank can do nothing to help anybody.

A second objection I have heard is that a few rich men who are not in need of assistance at all will also share equally in the benefits of this proposal. Well, I do not think that matters very much, Your Excellency. The percentage of cereals which will apply to rich men in this case could not be more than about one per cent of the total volume.

A third objection, Sir, that I have heard raised is that this is establishing a precedent and that other industries will probably come along later on for similar assistance. Well, Sir, all I can say is that when they come along and state their case their cases should be considered on their merits, and appropriate action taken. There is no doubt whatever, Sir, that this money—which is not a very large sum—will come back to Government. They will get it back in many different ways.

It is very essential indeed, Your Excellency, that industry should be kept going and I do not think we can possibly overestimate the psychological effect—putting more heart into the people—of action on these lines.—A very clear illustration of that exists in the very wide action of Government when some years ago they accepted the advice of the Economic and Finance Committee and introduced the principle of a flat rate on maize. There may be other methods, Your Excellency, but the situation is desperate, and I consider that this is not the time for a detailed enquiry into the whole agricultural industry of the Colony. I consider, Sir, that we should be guilty of criminal folly if we continued to fiddle while Rome is burning.

I sincerely trust that Your Excellency will cause this enquiry to be held immediately and that a report will be available for consideration during this session of Council, or at a special session of Council to be summoned in the very near future. I should welcome an assurance from Government on these lines and commend my motion to the favourable consideration of this House.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: Your Excellency, I beg formally to second the motion.

HIS EXCELLENCY: The question is.

“That to meet the abnormal conditions occasioned by the fall in the world's market values of cereals and without prejudice to the general question of subsidies, this House is of opinion that an immediate enquiry should be held by the Board of Agriculture, with such other members as Government may appoint, into the advisability of granting a subsidy of Sh. 1 per bag of maize (200 lb.), wheat (200 lb) and barley (160 lb) in respect of every bag exported from the Port of Mombasa during 1930.”

THE HON. W. C. MITCHELL: Your Excellency, I have very much pleasure in supporting this motion, although I think possibly I might disagree with the mover of it in one remark he made. I understood him to say that there had been hardly the credit facilities available that might enable farmers to pull through the present period of depression. My own feeling, Sir, is that in many respects credits have been too easy in the past. However, at the time when money is very tight I welcome the suggestion of a subsidy, not because I think that any question of £70,000 is likely to be a panacea for all the evils from which farmers suffer but because I think it is an essential corollary to the sum of £100,000 which was voted by this House a short time ago in connexion with the agricultural advances scheme. The Central Board, Sir—of which I happen to be a member—has met on many occasions since that scheme was passed and we have found it a matter of great difficulty to differentiate between those who are likely to be permanently benefitted by any advance under the scheme and those who are relatively committed to a position where bankruptcy stares them ultimately in the face. I might say, in explanation, that in considering claims we have felt it desirable—and have made it a constant practice—to work out the position in which an applicant will be two, three or more years hence, assuming that the cost of production and the selling prices remain the same as they are to-day. In the majority of cases it is with the greatest difficulty that we can see any outlet from the present position in which those men are at present placed, and anything that will tend to increase the selling prices of agricultural commodities or decrease the cost of production, such as any concession made by the Railway or Harbours Administration, will certainly relieve the position in which those entrusted with the administration of the £100,000 under the Agricultural Advances Board find themselves.

I would also like to stress the matter mentioned by the hon. Member for the Lake that time is the essence of the

whole thing, and I hope, Sir, that any committee appointed will sit immediately. I have much pleasure in supporting this motion.

COLONEL THE HON. W. K. TUCKER: Your Excellency, in supporting this motion I would like to clear up one or two details of casual conversation which I have heard being discussed during the last few days, one being that in this resolution we group maize, barley and wheat together, when in the view of some people there is a wide discrepancy in the costs of production of these and also in the degree of depression in the markets. I can assure the House, from a rather close knowledge of both sides—the production side also marketing—that broadly there is very little difference in these, and further, that a very high percentage of the farmers are engaged in all three. The fact is, Sir, that this resolution, as intended almost exactly balancing the losses of the advances, is intended to have a psychological effect, and it is on those lines that we advocate not only a broad flat allowance to everyone but its immediate application.

The second point of detail is whenever a local industry is in difficulties the natural question to put, particularly by the urban people, is "are you satisfied that you have done your best with your local market?" In other words, have you reached saturation point in cultivating the local people? I do think that the paper laid on the Table of this House earlier in the week showing the relative values of wheat and flour and bread in a large number of countries goes a long way to indicate that the producers and the millers have gone their distance towards creating the maximum amount of demand within this country. I am able to state that since that paper was laid on the Table of the House another large cut has been made by the millers in this country in an endeavour to break down the admitted abnormal difference between the price of flour and the local price of bread.

Now, Sir, I have permission to repeat a little incident that took place here two days ago when representatives of the producing section of this country met a big group of the leading commercial men in Mombasa. The shipping companies were being approached to know what more they could do—I advisedly said what more they could do, because they opened the proceedings by cataloguing a good deal that they had done. The first and natural question they put to us was, "Before you ask us to do more, what is the Government doing; what are Government Departments such as the Railway doing?" There is no question that until we clear up that point within this House our efforts will be very materially discounted and the prospects of getting immediate further relief from the shipping companies will be very considerably minimised.

Sir, our difficulty really is that these shocks in the world's markets, these abnormal shocks, take place with so much greater rapidity than it is possible for the best farmers in the world to control, or at any rate to reduce, the cost of production. I point that out, Sir, because I believe—and I have good reason to believe—that in time the cost of production will be reduced in this country. One can say that, without suggesting that there has been, taking the farmers by and large, any waste or extravagance in the past. Rather, Sir, would I suggest, as a typical instance of what that is, that the nature of farming will at all events alter in this country to this extent, that we shall in a large number of cases go in for more intensive farming. We shall not require to buy in that way quite so much machinery, and to that extent our expenses will go down in the way of depreciation, upkeep and so on.

Now, Sir, no one doubts that it is the function of Government in a young Colony to nurse its one and only main industry. It is simply a matter of the form of nursing, and that is in its turn dependent on the degree of the need. I do suggest, Sir, that if we believe all we are told by Sir Rowland Biffen three or four years ago, if we intend to get the maximum of benefit out of the elaborate and helpful experiments going on in such places as Njoro as the result of that committee, if we have faith in the wonderful potentialities of the country as described by Sir Daniel Hall and Sir Robert Grigg and others, and if, Sir, we believe in what I venture to express as the creation of the agricultural land bank—we shall never have, by and large, a better group of men on the land than we have got to-day—then, Sir, we have full justification for advocating in this House what I repeat is a purely emergency measure to meet, not a moderate fluctuation in the world's markets, but something which has scarcely ever been experienced in the world's history before.

Finally, Sir, I think it is germane to this resolution to remark upon the extraordinary change—and I believe permanent change—that has taken place, even in the last few months, in the economic world as a whole. The hon. mover of this resolution drew attention to the very significant and extremely helpful attitude disclosed in the papers of the new Minister of Agriculture at home. "We see statesmen who were notoriously biased—I withdraw the word "biased"—but notorious advocates of a totally different system, now pleading to the present Government that subsidies should be given to such industries as the sugar industry in the West Indies. We find banks who on balance have always taken a contrary line in the past veering round; we find the trade unions bringing in most important findings as the result of getting down to actual facts; and we do feel on this side of the House, Sir, that although this resolution at first sight

is abnormal—that is not quite the word I want—it is entirely justified by the general change that is taking place in the application of new methods in order to promote agriculture in the Colonies, and more particularly in a Colony of this kind that is entirely dependent upon it.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, in supporting the motion I need hardly say that I think it right to tell the House that I am a directly interested party. I have been trying for the last ten years in this country to make a somewhat precarious living out of growing cereals, and, Sir, in all sincerity, I say that the position of all our cereal growers is very bad at the present moment. 1926 was the last year that we had good rains, and though prices were rather low, they were reasonable. The following two years we had very bad drought; we lost heavily both those years. Then last year I personally did not have very good yields per acre, but taking the country all round the yields were much better—but what happens? Prices have gone to nothing. The hon. mover said the price of maize to-day was Sh. 5/45 per bag; I think I am correct in stating that that includes the bag.

THE HON. CONWAY HARVEY: That is so, Sir.

LT.-COL. THE HON. LORD FRANCIS SCOTT: The bag is valued at about Cts. 90, which brings the actual value of the grain itself to Sh. 4/55. Now, Sir, however well we farm, whatever economies we make in our farming, I defy anyone to make the growing of maize profitable at that price. The result of all this is that at the present moment most of us, including myself, are burdened with overdrafts which have got beyond what is sound finance, as our bank managers keep dinning into our ears. The facilities for further capital advances which this Council passed and which are now available are undoubtedly a help to enable people to carry on, to keep their land going, but they do in fact add to that capital debt which has ultimately got to be liquidated. Some of us, Sir, including myself, would willingly sell some of our land to try and get our capital indebtedness reduced, but there are no buyers at the present time. With these low prices people fight shy of the land, though, as a matter of fact, of course, it is the best opportunity for people to get land cheaply; prices are right down and they would probably make more money out of the land eventually.

I do trust that Government will treat this as a very urgent matter. I personally am opposed to the principle of subsidies, as a principle in itself, but I do consider, Sir, that the situation becomes desperate; it requires special and urgent means to

cope with it, and, Sir, taking all the objections that may be raised—it may be said that it is only going to benefit one section of the community—but, Sir, in desperate times different sections of the community have got to be helped. Last year we had to help a section of the native community to the extent of, I think, costing the country about £59,000. As a corollary to that it was considered necessary to put up a board of control to control prices. That did undoubtedly restrict the price at which cereals were sold last year. In addition to that, Sir, supposing it is said that this measure would only benefit Europeans, that is not so, as of course there is a considerable amount of native maize exported, and under this proposal they would equally get their subsidy.

I do trust, Sir, that Government will favourably consider this motion and that they will treat it as a matter of great urgency.

THE HON. T. J. O'SHEA: Your Excellency, in supporting this motion I should like to say that I am not directly interested in the matter, but like every man, woman and child in this country, I am indirectly interested. I am, in common with everybody else in the country, dependent for my living upon the success of the agricultural industry, upon which Kenya is supported, and I would emphasize the point made by the hon. Member for Nairobi South that time is the essence of the matter. Anything the Government does must be done in the immediate future; and that we must do something, and something concrete, and something of real value, will I think have to be recognized by everybody.

I would urge, Sir, that the basic reason for abnormal measures to meet this abnormal situation is that there is a process of readjustment of values going on and within that process the agricultural industry has been the first to suffer. It is suffering very severely and will possibly continue to do so for a period of another year or two. The cereal grower is to-day receiving for his services in relation to last year's values Sh. 8/6 in the £. On the other hand, people who are selling their services in other capacities to the community are to-day receiving a £ for the same services, and a £ which is of much more value in purchasing power than the £ they received twelve months ago. And so, Sir, for the time being, the agricultural industry is really at a great disadvantage indeed and it is hard for people who have not analysed the position to appreciate the circumstances in which it is placed and the relatively much better circumstances in which they are placed owing to the changes which are at the present time taking place in world-wide demands; I think it is inevitable, Sir, that this process will eventually

settle itself down into an increase in the prices that are being at present paid for agricultural produce, not to anything like the high level that prevailed up to a year or two ago, but to some higher level than at present prevails; and at the same time the other side of that process is going on, and the goods and services that the agricultural industry has to pay for will come down to something more closely comparable with the value of the goods that he obtains from the soil in return for his services. But while that process is going on it is a very difficult time for the farmer, and he must have State assistance to tide him over his difficulties.

I can well imagine that Members on the opposite side of the House are feeling that during the last six months or so they have heard far too much of the difficulties of the agriculturalist, and I should not be surprised to find that a reaction has been set up in the minds of some of them in that perhaps he is getting more than fair treatment and that some consideration might be given to other people. The explanation of that of course is that the agriculturalist is the only practical producer in this Colony, and that he unfortunately has been the first to feel the effects of this process that is going on, and his difficulties demand that, in our interest and in his, the State should give a lot of attention to him.

I would emphasize that in other countries, where agriculture is not the only industry, the difficulties of the abnormal situation have necessitated Government action in favour of the industrialists, and for preserving the industrial efficiency of the old countries just the same abnormal things have had to be done to meet an abnormal situation.

In common with the majority of Members on this side of the House, I share the radical objection on principle to subsidies, and if there was any suggestion that the proposals now being made were going to be anything other than of a temporary nature I would be opposed to them. But I would emphasize that they are of a temporary nature and that they are absolutely demanded by the abnormal situation that has been caused, and I add my voice to those who have already expressed the strong hope that Government will give sympathetic consideration and support to this motion.

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, I give this motion my heartiest support. When I say that, it will be realised how deeply I feel the need of immediate Government assistance and I hope it will be forthcoming.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I rise to support the motion, and I would like to make it clear that I am both directly and indirectly interested—directly

interested as a grower of cereals; indirectly interested in commerce and finance. And I would like also to make a definite statement here and now that whether this motion is accepted by Government or whether some other system of helping the agricultural industry is found, I will give an assurance that I will take no part in such debate for the purpose of any direct benefit to myself. It is due to my many interests, I submit, that I am able to support this motion, but I realise the difficulties of the cereal growers in this Colony. The hon. mover laid stress on this point, but I would like to point out that we have no agricultural bank in this Colony. Had we an agricultural bank, working as it is expected to in other countries, I would not support a subsidy. That land bank is long overdue, through no fault of this side of the House, and is still, I may say, hanging fire, and there is no means by which, in a crisis like the one we are facing at the present time, a farmer can get ready access and reasonable access to long-term credit. That is one reason, amongst others, why I support this motion. There is another. Last year, during the worst famine, we held a session of Council and we voted a large sum of money for the relief of that famine, which resulted in round figures to a figure of £60,000. Also, in addition to that, there was some £30,000 of maize imported by Government, most inadvisedly, which competed with the local maize of the country to its detriment, on which I think I am correct in saying there was a loss in competition with our local crops of maize of £6,800. The local grown product was restricted definitely to the maximum of Sh. 15/50 per bag, and I suggest that in a year of depression, the year that we are now going through, it would only be a suitable return to those farmers who were deprived of the economic benefit from their markets last year that they should get some assistance this year.

If Government wishes to go on the lines that they require precedent for such a measure, I may mention what has been done in Southern Rhodesia. They have granted Sh. 1 a bag on export. I believe in South Africa a subsidy has been refused, but it must be remembered that they have a very efficient land bank, with a large capital, working on very wide terms. I have direct information, which can be verified, that the Federal Government of Australia have granted a loan of £1,000,000 to South Australia; they are granting a loan of £250,000 to Western Australia; they have granted a loan of £200,000 to Tasmania. They are also suffering from the world drop in primary products and very especially in their own. Those are the measures that at the moment they have taken to alleviate the distress in the country. I should also mention that the Federal Government of Australia have guaranteed Sh. 4 per quarter on wheat at grower's station, the equivalent

of Sh. 4/0 f.o.b. It is anticipated they will make a considerable loss on that guarantee, but that is the measure which they are taking to face their present difficulties.

There are naturally many difficulties, Your Excellency, but unfortunately cereal growers have suffered very badly during the last twelve months, though it is true and it is only right to say, that in my own area, the Trans Nzoia, Plateau North, they had excellent crops last year. It might be argued that it should make up for the loss in the market price that they had these excellent crops, but the weather, over which they have no control, had been most adverse, and the maize, especially after being harvested and tested, was found had increased in moisture considerably, and it has been a most difficult and an almost heartbreaking job to get that maize on the market, owing to the weather conditions and the delayed marketing of maize; it made transport very difficult. It has increased the quantity of weevil, which is doing considerable damage, and that damage is increasing week by week. It has also prevented the maize growers, especially in those districts where the weather has been most adverse, from taking advantage of the market. By that I mean taking advantage of the early market. They have not been able to get their crops marketed as they have usually been able to do in normal times and conditions. The result is that even a three months' loss in the early part of the year in getting the maize on the market will make forward sales difficult and will make a considerable loss, especially for the maize producer, for the simple reason that the maximum market can be taken at the beginning of the year and the minimum price can be taken at about the end of June.

Those are the difficulties, Your Excellency, that have been imposed on the cereal growers, and I submit them for the favourable consideration of this House. I think I am correct in saying that the first relief to the industry was granted by the shipping companies themselves. They made a voluntary reduction of Sh. 2/6 a ton; they have since taken off another Sh. 2/6 per ton, and it is perfectly true—and I think it is with some justice—that they ask, "We have already assisted you; what is Government going to do?"

There is another point, Your Excellency, the question of the land bank not being in force, and consequently cannot be applied to and give those great benefits that a well organised bank can give to agriculture. It has also, through not being in force, held up settlement, held up all settlement in this Colony. That has an indirect bearing on the question before the House, but I will not go beyond any further than stating that that is the case.

At a meeting held at Kitale while I have been away, during the sitting of the Convention of Associations, a meeting at which there were 100 farmers present; they passed a resolution asking that Government should grant a subsidy of Sh. 1 a bag on all cereals produced. I just mention that to show that the farmers themselves are asking for it. The Convention, which is the most representative convention probably that has ever sat in the Colony of all classes of producers in this Colony, gave this resolution not only their favourable consideration, but passed it as an instruction to Elected Members of this Colony to do everything possible in their power to put the case before Government and get Government's assistance.

I suggest, Your Excellency, before closing, that if you cannot see your way—personally I am very pessimistic—for I have seen nothing in the heart of Government, no desire to meet any recommendation from this side of the House—if it cannot be accepted in this form, then I suggest perhaps there are other forms that Government might put up that would give immediate relief to our industry. One might be by Government subsidising the Railway with a Railway rate. I think the essence of the matter is time, and if relief is going to be given then I sincerely request that it should be given and be given quickly.

REV. CANON THE HON. H. LEARRY: Your Excellency, I have listened to the eloquence of the hon. proposer of the motion and the arguments put forth, and I myself shall have great pleasure in voting for the motion, because it seems to me only reasonable and just that, as last year, when the African community were in great difficulties this House voted a large sum of money to help them, that when another community, and one that is going to reap the benefit and build up the Colony, namely the cereal growers, that they too should be helped in the same way as the others were first of all. I therefore hope very much that the Government will consider having this enquiry and seeing what can be done in the direction suggested.

THE HON. A. H. MALIK: Your Excellency, I am also satisfied that a prima facie case does exist for the relief that is sought in this motion, and I hope that Government will appoint this committee and go into the matter and find some way of relief for the cereal growers.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I cannot see how Government can experience any difficulty whatsoever in accepting this motion. I do not think that Government can demonstrate that an enquiry is not necessary. Government certainly cannot demonstrate that enquiry is not

immediately necessary if it is necessary at all. We suggest very broadly to Government an efficient way of arriving at a conclusion, and that is we suggest by whom the enquiry should be made on one side and we allow Government the widest scope in adding to the personnel of that Board.

Although the scheme suggested is a rather mechanical rule-of-thumb scheme, it is one which we have analysed very carefully in relationship to the other possibilities and we have found that it is a rule-of-thumb scheme which suits the immediate position. Government, I feel certain, cannot have a better scheme than this one, although if Government does refuse to accept this motion it will be forced, in justifying its refusal, to state an alternative for meeting the situation. Government has a very heavy responsibility, not only the Government of this country but governments all over the world, in attempting to stop the general collapse of credit. If governments do not at this stage make a sincere attempt to stave off this collapse throughout the world there will be a depression in the value of currency, like that which after the war started in Austria, and it will result in a cataclysmic depression throughout the world. No government in any one country can absolve itself from this responsibility.

It has been stated that Members on this side of the House are interested parties, but it can also be categorically stated that Government itself is the most interested party in this particular measure, and Government should therefore accept the motion. I support the motion.

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, I do not propose to traverse the economic position of the agricultural industry as we find it in this Colony to-day. The seriousness must be admitted by all who have any knowledge of the subject. I propose, Sir, in the first instance, to make some comments upon the terms and merits of the motion as it stands before the House, and in the first place I wish to say that in the opinion of Government a rather more extensive enquiry is required than is indicated in the motion. To quote the reference in the motion, it is proposed that this enquiry should be conducted by the Board of Agriculture with other members appointed to it. In the opinion of Government the Board of Agriculture is not necessarily the most appropriate body to which to refer an enquiry of this kind.

CAPT. THE HON. E. M. V. KENEALY: Why?

THE HON. THE DIRECTOR OF AGRICULTURE: It is felt, to begin with, that the whole of the membership of the Board is not required for this purpose, and secondly there are financial and other implications involved which are not necessarily

closely related to the technical aspects of the question as they affect the agricultural industry, and I feel sure that hon. Members will agree that these financial and other aspects require close consideration.

Then again, Government considers that the enquiry should not be confined to the granting of subsidies. Reference has been made by the hon. mover of the motion and by others to what has been done recently in the Union of South Africa and in Southern Rhodesia. I would draw the attention of the hon. mover of the motion to the fact that the advances authorised by the Government of the Union to the land bank of South Africa to increase the advances made to the central co-operative societies by Sh. 2/6 per bag is not a subsidy of the kind indicated in this motion.

Then again, in regard to Southern Rhodesia, it would appear that the offer of Government has not received entire acceptance by the farming community of that country. In this connexion Sir, I should like to quote two or three extracts from the opinions expressed by responsible representatives of the agricultural industry in that country. Mr. Mossop, Chairman of the Maize Association, wrote:—

"The dole or bounty is an appalling reply to the call for help, but, as it is the only help offering, and present market prices have accentuated the urgency of the position, the leaders of the growers dare not refuse it. It is still hoped that the scheme for assistance in the way of loans (secured against crops) for the purpose of extending the practice of green manuring and fertilizing on a rational scale—proposed some months ago and accepted sympathetically by the Government—will be brought to fruition in the very near future."

It might be considered that the Government of this country has taken a step in advance of the Government of Southern Rhodesia by way of granting loans.

Then again, Mr. Christian, President of the Rhodesian Agricultural Union, stated:—

"The subsidy is the one solution of the problem that we did not desire," he said.

"Apart from the fact that the amount of subsidy (Sh. 1) will not bring the price of export maize up to the cost of landing it on European markets unless there is a very big unexpected rise in prices, the farming community dislikes the idea of being put on the dole. The position being so desperate, however, we have to accept anything we can get as a purely temporary measure. But I am afraid large numbers of growers will be hard put to it to carry on."

" It would be preferable if, instead of a flat subsidy of Sh. 1, the Government had agreed to fix the minimum price of export maize by means of a variable subsidy. This would have given confidence both to the producers and to those dependent upon the industry at a time when such confidence is sorely needed."

I quote those extracts, Sir, to indicate the need for closely examining this question of the subsidy, and for examining any other possible avenue of granting assistance to the industry.

It is the view of Government that such an enquiry should also cover the operation of the Agricultural Advances Act, to which my friend the hon. Member for Nairobi South referred. It would be a favourable opportunity to ascertain to what degree this Ordinance meets the needs and the main object for which it was passed by this House, and it might be found that improvements could be effected to it.

I am authorised by Your Excellency to inform the House that you are prepared to appoint a committee immediately to deal with this matter at once and to report at the earliest date possible; a committee with wider terms of reference than that indicated in the motion before the House, but not, however, so wide that it will not be able to cover the field of enquiry and to report within a reasonable time.

As to the constitution of the Committee, I am authorised by you again, Sir, to inform the House that it is your intention to appoint one constituted as follows. Unfortunately the hon. the Treasurer is at present far from well and it is not known how soon he will be able to resume duty. It is therefore the intention of Your Excellency to invite my hon. friend, the Postmaster General, to act on this committee, and it may happen that if the hon. the Treasurer recovers shortly that he too will serve on the committee at a later stage. It is proposed that the committee should also include—

The hon. the Commissioner for Local Government,
Lands and Settlement;

The Chairman of the Board of Agriculture;

with a member of the Board of Agriculture who is well acquainted with the cereal industry. I refer to Captain Woolryche-Whitmore. It is Your Excellency's intention, I believe, also to invite Mr. J. Toogood, of Nakuru, to serve on this committee. He is an experienced cereal farmer and is also well acquainted with the financial questions involved. I believe also it is Your Excellency's intention to appoint the Director of Agriculture as Chairman of this Committee.

I hope the House will therefore agree that so far as the Board of Agriculture is concerned it will be adequately represented on this Committee by the Chairman of the Board and by Mr. Woolryche-Whitmore. The Board of Agriculture will also be invited to submit any information and data which it is believed has been collected by the Board during recent weeks.

I need hardly remind the House that Your Excellency, as far back as April last, and on subsequent occasions, has given this House and the Colony the assurance that you would be disposed favourable to consider and give your earnest consideration to any proposals submitted for alleviating the pitiful position of farmers in this Colony, and I do not think, it is hardly correct to suggest, that Government has done little in this matter.

I have endeavoured to follow the discussions and debates which have taken place in other countries in connexion with the position that the agricultural industry now find itself in in those countries, and the fact remains that only very exceptionally have those different countries been able to give effect to practical measures for alleviating that position. Hon. Members are well aware that in this Colony the Government voted a sum of £100,000 for the operation of the Agricultural Advances Ordinance. There is also on the Order of the Day a motion standing in my name which will contribute a substantial sum towards assisting maize and wheat growers. In other directions too, Government has not been idle in the matter; it has probed the subject in many directions and has collected a good deal of information.

I have it from Your Excellency to inform the House that Government is unable to accept the motion as it stands but it is hoped that the information I have given will satisfy the House that the most earnest consideration will be given to the subject immediately, and it is hoped further that the steps proposed will find general acceptance in the House.

THE HON. E. POWYS COBB: Your Excellency, I am very sorry to learn from the speech of the hon. the Director of Agriculture the course which Government thinks it proper to pursue in this matter. It seems to me that the course proposed is going to lead to further delay, and that is the one factor which every speaker on this side of the House has urged Government to avoid—we have impressed upon Government that time is the essence of this matter. I suggest that such a Committee as has been named by the hon. the Director of Agriculture, many of whom are entirely strange to this question, must, if it is going to report faithfully, take a great

deal of time in going over ground with which Members on this side of the House are entirely familiar. It seems to me unwise to set aside the advice of Elected Members who, after all, do represent the electors of this country and who, if they do not know what their wishes are, ought not to be sitting here. Many arguments might be used, but Members have been sitting here over their time; I would therefore remind the House that only a fortnight ago the mandate on which Members are sitting in this House was renewed by the Convention in the most definite form and specifically on this subject. Therefore such arguments as the hon. the Director of Agriculture used in regard to Rhodesia—he said that Rhodesia does not like this method which has been adopted and which we are asking for here—seem to me are entirely irrelevant in this country because the country has had the question before it and has definitely, in the most public and representative way, declared that it is in favour of this method. I submit, therefore, Sir, that in so far as the Committee will have to ascertain the wishes of the country, that verdict has already been given; the country has declared its wish in this matter.

So far as making a detailed enquiry into all the various methods that may be adopted to relieve the admittedly abnormal conditions, I would ask this Council to consider what really are the particular facts of the case. They are very simple if they are only faced boldly. What is the position? The position is that the whole world is faced with entirely abnormal conditions as regards prices. The whole world, every single country of the world which depends upon agricultural products as one of the main factors in its economic situation, has taken abnormal steps to meet that situation. Now we have definitely therefore got to take an abnormal step in this country unless there is some strange immunity which protects it from the operation of economic happenings which have affected every other country in the world. There is no doubt that some abnormal step has got to be taken. Granted that, what are the factors of the situation? You have the position that in round figures a ton of maize is worth to-day in England Sh. 107; you have the round figure (an average figure) that the cost of the production of that ton of maize on the farm up to the stage where it reaches the local station is Sh. 69 to Sh. 70; you have the figure that the external costs, the charges after the maize leaves the farm, over which the farmer has no control, amount to Sh. 58—giving a total of Sh. 127 a ton. That shows a loss of Sh. 20 a ton. The thing you have got to make up your mind about is how you are going to save that Sh. 20 a ton.

Now I cannot help looking at these matters from one point of view, which I think is a very important point of view, and it seems to me the crucial point of view which gives a fair test of the situation. You have already heard that on the farm itself farmers are making every possible exertion to reduce their Sh. 69 or Sh. 70, which is the cost at present at the local station, but, as has been made clear, that process must be a slow one. On the other hand, you have got that other large figure, Sh. 58, of external costs. Now, since the whole question of whether we are going to sell our cereals successfully or not depends on whether we can enter competitive markets on a satisfactory footing as compared with other countries, we must examine carefully how that Sh. 58 is made up. It is made up of sea freight; of railway freight, of various charges incidental to the business of handling and marketing. In round figures a ton of maize has reached the ship's slings in this country at a cost of Sh. 27 a ton between the local station and the ship's slings. In South Africa the figure which you have got to compare with our Sh. 27 is Sh. 17. That is to say, a ton of maize reaches the ship's slings in this country with a handicap of Sh. 10 per ton to-day as compared with a ton of maize in South Africa. There at once you have Sh. 10 of the Sh. 20 which I mentioned just now accounted for. There are further economies that probably can be made in these external charges. I am not suggesting that the whole of it is due to the charge between the farm and the ship's slings; there are other factors. We hope that if the steamship lines find that other parties who are concerned in this matter do come forward and bear their share, then the shipping companies, who have already made concessions, may make still further concessions.

Now is there any need for any great wisdom or any great experience of financial affairs? Is there any need for any wide research to study how to deal with figures so simple as those which I have put before you? I fear a repetition of what happened in the case of the Agricultural Advances Board. I fear that this question may disappear out of sight for a month as that questions disappeared out of sight for a month; and the loss of that month has probably cost the country a large sum of money.

There is one advantage in this proposal of the Government, at any rate. It is not a committee which is going to sit behind closed doors. That is an advantage, but I very much fear that valuable time is going to be wasted by an enquiry which is not needed by the facts of the case. I suppose, however, Government mean to follow this particular course, whether we on this side of the House consider it

wise or unwise, but in view of the urgency I hope Government will see its way to grant this request, and that is that the proposed committee shall report to this Council during the present session. If necessary, if information has to be obtained out-country which may not be available here, then I would ask that Government agree to adjourn to Nairobi in order to permit that committee to report this session. I trust that such a request will be regarded as reasonable. There is no Member of this House who does not appreciate that time is an essential factor in this matter, and in saying that I hope that Government will acquiesce in the request.

HIS EXCELLENCY (to the hon. Member for the Lake): Do you wish to press the motion in view of the statement made on behalf of Government?

THE HON. CONWAY HARVEY: I should like to reply to two or three points which have been raised, Your Excellency. We are grateful, of course, that an enquiry will be held into this matter, though personally I do rather deprecate the wider scope given to the enquiry, as I think a perfectly clear and perfectly definite case has been established for the more specific enquiry from which we would be far more likely to get immediate results. The hon. the Director of Agriculture, Your Excellency, suggested that sufficient consideration had not been given to the importance of the financial aspects of this proposal. Well, Sir, we did specifically provide for that by suggesting that Government might like to include a number of people in the personnel of this committee. We have, of course, Sir, in mind Government's financial advisers.

The hon. the Director, Sir, also mentioned that the South African system was totally different from that suggested in this motion. That, Sir, I tried to make perfectly clear myself. I am thoroughly acquainted with what has been done for many years. He also quoted a number of Rhodesian authorities. Well, I can also quote authorities later than his, no less a person than the Chairman of Committees of the Legislature of Southern Rhodesia, and he clearly and definitely told me and one or two colleagues of mine with whom I was speaking that the Rhodesian Parliament had come definitely to the conclusion that the subsidy was the only practicable means of giving effect to the relief to cereal farmers in Rhodesia.

One other point, Sir. We should have welcomed some indication from Government as to the exact terms of reference of this proposed enquiry. The hon. the Director mentioned one or two of their functions, but we should have welcomed a definite statement as to precisely what the terms of reference will be.

HIS EXCELLENCY: Perhaps, as the hon. Member has raised that point, I may tell him that the terms of reference of this committee will be laid before this Council for its information on Monday.

THE HON. CONWAY HARVEY: Thank you, Sir. I think we had better have a division, Sir, as this is the first occasion within a number of years that I have seen complete unanimity among the Unofficial Members.

HIS EXCELLENCY: The question is:

"That to meet the abnormal conditions occasioned by the fall in the world's market values of cereals and without prejudice to the general question of subsidies, this House is of opinion that an immediate enquiry should be held by the Board of Agriculture, with such other members as Government may appoint, into the advisability of granting a subsidy of Sh. 1 per bag of maize (200 lb.), wheat (200 lb.) and barley (180 lb.) in respect of every bag exported from the Port of Mombasa during 1930."

The question was put and lost by 12 votes to 10.

Ayes: Mr. Cobb, Lieut.-Col. Durham, Mr. Conway Harvey, Capt. Kencahy, Lieut.-Col. Kirkwood, Canon Leakey, Messrs. Malik, Mitchell, O'Shea, Major Robertson-Eustace, Lieut.-Col. Lord Francis Scott, Col. Tucker.

Noes: Messrs. Balo, Bennett, Brassey-Edwards, Campbell, Dobbs, Fitzgerald, Dr. Gilks, Messrs. Goodship, Holm, Horne, Howell, Macgregor, Martin, Maxwell, Montgomery, Moore, Scott, Sir Ali bin Salim, Col. Wilkinson.

The Council adjourned to 9.30 a.m. on Monday,
21st July, 1930.

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SECTION 7.

CONTINUED ON
REEL No.

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KENYA GOVERNMENT ARCHIVES
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SECTION 7.

END

OF REEL NO. 4